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Ontario. Legislative assembly. [Committees]  
Select committee on consumer credit  
Hearings

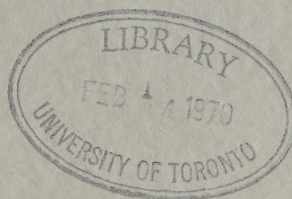
SELECT COMMITTEE ON CONSUMER CREDIT

Proceedings of the hearing  
held at the Parliament Build-  
ings, Toronto, Ontario on the  
13th day of August, 1963.

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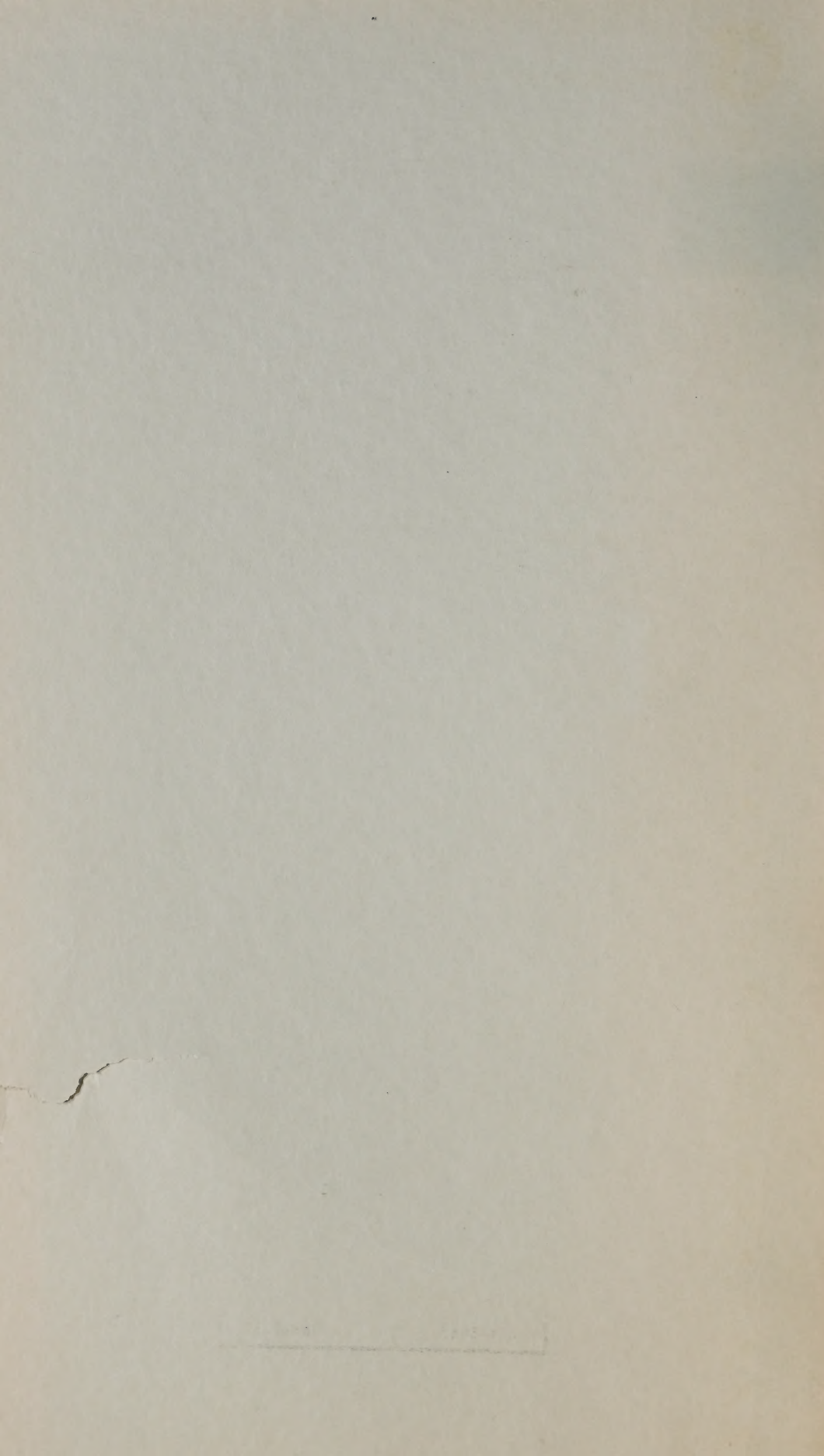
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A P P E A R A N C E S :

Mr. J. Yoyce -- Assistant General  
Manager, Crown Trust  
Company

Mr. F.W.C. Irwin -- Executive Assistant,  
Mortgages, Canadian  
Life Assurance Company

Mr. J. W. Rose -- Deputy General Manager,  
Canadian Permanent  
Mortgage Corporation

Mr. E.F.K. Nelson Executive-Director,  
Trust Companies Asso-  
ciation of Canada

Mr. Shifrin -- Lawyer and Mortgage  
Broker, Shifrin and  
Solish

\* \* \* \* \*







1 ---ON COMMENCING AT 10:00 A.M., AUGUST 13TH, 1963.

2 THE CHAIRMAN: Gentlemen, we will commence  
3 the meeting. The first person we are to hear from this  
4 morning is Mr. J. E. Fortin, Secretary-Treasurer of  
5 the Dominion Mortgage & Investment Association, and  
6 along with Mr. Fortin we have Mr. J. Joyce, the  
7 Assistant General Manager of the Crown Trust Company  
8 and Mr. F. W. C. Irwin, Executive Assistant, Mortgages,  
9 Canadian Life Assurance Company, J. W. Rose, Deputy  
10 General Manager, Canadian Permanent Mortgage Corporation  
11 and E. F. K. Nelson, Executive-Director, the Trust  
12 Companies Association of Canada. I will ask Mr.  
13 Fortin to come forward now and present his brief.

14 MR. FORTIN: Mr. Chairman, the names  
15 of those who are with me have been read out. We have  
16 prepared a short memorandum showing who we are and  
17 as we have limited ourselves to mortgage credit, that  
18 is, first mortgage credit. Unless you so request, I see  
19 no particular purpose in reading the brief. We will  
20 do our level best, my colleagues and I, to answer  
21 whatever questions you have for us. I would like to  
22 feel free to call upon --(rest of sentence inaudible)

23 THE CHAIRMAN: Is that agreeable to  
24 the members of the Committee?

25 MR. MacDONALD: I suggest, Mr. Chairman,  
26 that one of the witnesses read the brief and then we  
27 can follow his reading and then I think we would be  
28 in a better position --

29 THE CHAIRMAN: I think that would be,  
30 perhaps, a little better.



---ON COMMENCING AT 10:00 A.M., MONDAY, 1957.

THE CHAIRMAN: Gentlemen, we will commence

the meeting. The first person we are to hear from this

morning is Mr. J. E. Tordoff, Secretary-Treasurer of

the Dominion Mortgage & Investment Association, and

along with Mr. Tordoff we have Mr. J. Tordoff, the

Assistant General Manager of the Royal Trust Company,

and Mr. J. E. Tordoff, Executive Assistant, Mortgage

Canadian Life Assurance Company, J. W. Bess, Deputy

General Manager, Canadian Mortgage & Investment Association

and E. F. E. Nelson, Executive Director, the Trust

Company Association of Canada. I will ask Mr.

Mr. Tordoff to read the report of the Association.

of those who have been active in the past

prepared a short memorandum showing who we are and

as we have limited capacity to mortgage assets, that

is, first mortgage assets. Unless you so request, I see

no particular purpose in reading the report. He will

on our level, by my colleagues and I, to answer

whatever questions you have for me. I would like to

feel free to call upon me (rest of sentence illegible)

THE CHAIRMAN: Is there anything to

the members of the Committee?

MR. BISHOP: I suggest, Mr. Chairman,

that one of the witnesses read the report and then we

can follow his reading and then I think we would be

in a better position to discuss the report.

THE CHAIRMAN: I think that would be

perhaps a better method.

THE CHAIRMAN: All right, let us begin.

THE CHAIRMAN: Let us begin.



1 MR. FORTIN: "The Dominion Mortgage and  
2 Investments Association is a --

3 THE CHAIRMAN: Would you care to sit  
4 down? Whichever you prefer.

5 MR. FORTIN: "The Dominion Mortgage and  
6 Investments Association is a voluntary organization  
7 composed of 25 life insurance companies, 7 loan  
8 companies, 1 savings bank and 13 trust companies. It  
9 was organized in 1961 and since then has provided a  
10 focal point to discuss and deal with questions of  
11 common interest to these companies particularly in re-  
12 gard to matters related to their investments. While  
13 it does not include all such companies in Canada, its  
14 membership represents the major portion of the business  
15 in Canada. The Association operates by way of making  
16 recommendations to member companies, each company being  
17 free to accept or reject them. Among the objects of  
18 the Association are -

19 (1) To assist its members in the fulfillment of  
20 the essential functions they perform in  
21 receiving, safeguarding and investing the  
22 savings of the public.

23 (2) To maintain sound and equitable debtor and  
24 creditor relationships in connection with  
25 the loaning of the funds entrusted to such  
26 companies by the public.

27 (3) To promote respect for contractual obligations  
28 and for the principles of thrift and saving  
29 and to assist in protecting investments of  
30 member companies against default or damage,







1 and generally to assist in problems affecting  
2 investments.

3 The investment and lending powers of  
4 member companies are governed by legislation enacted  
5 by Parliament and by the legislatures of the Provinces.  
6 Except for a small part of funds available for investment  
7 and lending, this legislation does not permit member  
8 companies of the Association to participate in the  
9 granting of consumer credit nor in making loans on the  
10 security of bills of exchange or promissory notes. The  
11 Association, therefore, has no information and little  
12 knowledge of these matters. However, members of the  
13 Association as a class are probably the biggest lenders  
14 on the security of real estate first mortgages and their  
15 representatives attending before your Committee on  
16 August 13 will be pleased to do all they can to answer  
17 such questions as are put to them on real estate first  
18 mortgage lending.

19 Member companies in 1962 approved net  
20 mortgage loans in Canada to the amount of \$1,265 million  
21 being 70,058 loans. Of these, approvals in respect of  
22 properties situated in Ontario amounted to \$596 million  
23 being 34,030 loans. Approvals in respect of residential  
24 properties, new and existing, accounted for about 79  
25 per cent of the total.

26 At the end of 1961 mortgage loans on the  
27 security of real estate in Canada held by member  
28 companies approximated \$4,462 million. Of these,  
29 approximately \$2,400 million were secured by real estate  
30 situated in Ontario. About 80 per cent of these mort-







gages were secured by residential property, single and multiple.

Member companies are authorized to make mortgage loans on improved property where the amount advanced or the purchase price, together with the amount of any claim on the real estate ranking equal or prior, does not exceed two-thirds of lending value. Lending value is the amount which a prudent lender estimates could likely be recovered in case of default through the sale of the property in times of less favourable economic conditions. Involved in the determination of lending value are such factors as location, age, quality of materials and construction, state of maintenance, repair and general physical condition, proximity to possible nuisances, suitability in relation to value and type of properties in the area surrounding the property offered as security, attractiveness of the property planning, size of rooms, etc. Because lending value is a matter of educated opinion, there are variations in the amount of money which various lenders are prepared to loan on the same property.

While the legislation permits member companies to make and purchase mortgage loans other than first mortgages within the limits described in the previous paragraph, the holding by member companies of mortgages other than first mortgages is very small in relation to the total mortgage holdings and, for practical purposes, it may be said that member companies confine their mortgage activities to first mortgages.

Member companies are also concerned with





1 the credit-worthiness of would-be borrowers as well as  
2 with the physical property they offer as security.  
3 They endeavour to ascertain all there is to be known  
4 about the borrower -- the nature of his employment and  
5 his employment history, his income and prospects, his  
6 and his family's living habits, the extent of his  
7 savings and the source of the equity he proposes to  
8 place in the property to be mortgaged. In short, the  
9 company endeavours to ascertain as far as possible  
10 whether the prospective borrower is likely to be a good  
11 mortgage borrower. Each member company has its own  
12 ground rules in evaluating credit-worthiness.

13               There is great competition for mortgage  
14 loans. There are various types of lenders in the field  
15 and numerous lenders in each type, some with sub-  
16 stantial funds and some with modest funds. Each  
17 lender has a rate of return at which he would like to  
18 put his funds to work and he will endeavour to obtain  
19 it. Interest rates on mortgages are governed by the  
20 demand for mortgage loans in relation to the supply of  
21 funds seeking an outlet into mortgages. Both the demand  
22 and supply factors differ in respect of different types  
23 of property and so the interest rate applicable to  
24 mortgages on residential property will differ from that  
25 applicable to mortgages on property other than resi-  
26 dential. Likewise, there may be variations as between  
27 mortgages on single houses and those on apartments and  
28 other rental properties and as between different types  
29 of commercial and other business properties. Similarly,  
30 there may be variations in rates depending upon the







1 location of the property due to added costs of admin-  
2 istration. Where there appears to be an added element  
3 of risk, that will be reflected in a higher rate. It  
4 does not necessarily follow, however, that a lender  
5 will have a great variety of rates as, for reasons of  
6 ease and cost of administration, he may decide on a  
7 pattern of two or three rates.

8           The mortgage document which the borrower  
9 is required to sign and which must be registered against  
10 the land on which the mortgage applies recites the amount  
11 advanced on the mortgage and the rate of interest charge-  
12 able thereon and sets out the rights and obligations  
13 of the mortgagor and of the mortgagee. In addition to  
14 legislation, there is a large body of legal decisions  
15 dealing with the position of mortgagees and mortgagors  
16 respectively. Further, the Interest Act, Canada,  
17 contains provisions requiring a real estate mortgage  
18 document to contain a statement showing the amount of  
19 principal money and the rate of interest chargeable  
20 thereon calculated yearly or half yearly, not in advance,  
21 in respect of mortgages payable on the sinking fund  
22 plan, the blended payment plan or any plan involving  
23 an allowance of interest on stipulated repayments;  
24 under penalty of no interest being chargeable, payable  
25 or recoverable. Other provisions provide that, notwith-  
26 standing any other provision of the real estate mortgage,  
27 no greater rate of interest can be chargeable, payable  
28 or recoverable than that shown in such statement. Also,  
29 no fine, penalty or rate of interest can be exacted on  
30 any arrears of principal or interest that has the effect







1 of increasing the charge on such arrears beyond the  
2 rate of interest payable on principal money not in  
3 arrears, under any mortgage of real estate. Further,  
4 the mortgagor who is not a corporation can be charged  
5 no further interest in respect of principal money or  
6 interest due in respect of a real estate mortgage ex-  
7 pressed as being for a term longer than 5 years, if after  
8 the expiration of 5 years, he tenders the amount due  
9 for principal money and interest together with 3 months  
10 further interest.

11 As part of the loan transaction, the  
12 borrower agrees to pay certain charges. These charges  
13 generally are:

14 (a) the cost of obtaining a surveyor's certificate,  
15 if one is not already available;

16 (b) the cost of appraising the property;

17 (c) the cost of credit reports; and

18 (d) solicitor's and notary's fees and disburse-  
19 ments for

20 (i) searching and settling the title  
21 to the property,

22 (ii) preparing and registering the  
23 mortgage and for necessary copies  
24 thereof,

25 (iii) sub-searches of title necessary to  
26 insure the priority of advances on  
27 the loan,

28 (iv) preparing, registering and renewing  
29 chattel mortgages and other security.

30 It is not possible to determine in advance what the





1 aggregate of these charges will be as most of them are  
2 not under the control of the lender. Solicitor's fees  
3 are generally those determined by county or other law  
4 society tariffs and they will vary depending upon the  
5 amount of work and disbursements required to enable the  
6 solicitor to give a certificate of valid title. Like-  
7 wise, surveyor's fees are subject to the tariff set by  
8 organizations of surveyors. Similarly, appraisal fees  
9 depend upon the type of property and the amount of work  
10 involved in ascertaining its appraised value. Credit  
11 reports are obtained from sources providing such  
12 reports and the cost of them to the borrower depends  
13 upon the charge made to the lender by the reporting  
14 agency.

15 In some cases, where the lender commits  
16 himself to make a large mortgage loan on industrial,  
17 commercial or apartment property, the borrower is  
18 required to **pay** to the lender a "stand-by" fee. If the  
19 borrower does not eventually take the loan, the fee is  
20 forfeited and, if he takes the loan, it is refunded to  
21 him. However, where the commitment is a lengthy one,  
22 the transaction **may** involve no refund.

23 Such a fee is made necessary because many  
24 such borrowers, having obtained a commitment from one  
25 lender, proceed to use that commitment to obtain better  
26 terms from other lenders. If they are successful in so  
27 doing, they do not take up the loan first committed to  
28 them and in consequence that lender is put to expense  
29 and considerable trouble in having arranged his affairs  
30 so as to be able to honour the commitment made.







1 It is not the practice of member  
2 companies generally to make mortgage loans whereunder a  
3 "bonus" over the amount of money advanced is payable  
4 to them.

5 There are cases where a loan commitment  
6 is given at a stated rate of interest where the  
7 borrower would prefer the mortgage to be written at  
8 a lower rate of interest. In such cases the differ-  
9 ence in interest rate may be capitalized and paid  
10 outright to the lender or stipulated for in the  
11 mortgage document."

12 THE CHAIRMAN: Thank you very much,  
13 Mr. Fortin. Is there anything you wish to add to  
14 your brief by way of remarks?

15 MR. FORTIN: Just one slight remark,  
16 Mr. Chairman. You will notice that we make reference  
17 to the Interest Act. I believe there are somewhat  
18 similar provisions in Ontario legislation, however,  
19 not being very well versed in the law, being  
20 doubtful on constitutional questions, I thought it  
21 best for purposes of a brief of this kind to rely on  
22 the Interest Act rather than the Ontario Mortgages  
23 Act.

24 THE CHAIRMAN: Now we will proceed  
25 with any questions. Mr. Sedgwick?

26 MR. SEDGWICK: I have one or two. Mr.  
27 Fortin, you understand that I, and I believe the  
28 members of the Committee, followed your brief when  
29 you read it, so that any questions I ask are not the  
30 result of any involved study of it and you may be able







1 to enlighten us as to your practice -- that is the  
2 practice of your members. First, do the members of  
3 your Association charge any agent's commission to the  
4 borrower?

5 MR. FORTIN: Not generally, sir. Any  
6 commission they pay to a mortgage broker or the person  
7 who obtained the loan is part of the lender's cost.

8 MR. SEDGWICK: I see. It is absorbed  
9 by the lender?

10 MR. FORTIN: Yes.

11 MR. SEDGWICK: It isn't added to the  
12 mortgage loan?

13 MR. FORTIN: I think that is very, very  
14 much the general practice. There may be an odd case,  
15 but it is not prevalent, no.

16 MR. SEDGWICK: So I understood. Then  
17 as to interest rates -- as you rightly say, one  
18 cannot generalize because they depend upon economic  
19 factors -- at the present time about what is the rate  
20 of interest on what might be described as prime first  
21 mortgages?

22 MR. FORTIN: On residential property  
23 the rate today is 7% with quite an evident trend in  
24 the last short while to  $6\frac{3}{4}$  -- there are now  
25 indications that that trend is reversing back to the  
26 7. There will be loans in places -- oh, say, just  
27 using a name, Sudbury or North Bay -- where the rate  
28 might be  $7\frac{1}{4}$ , but generally the rates will be 7% to  
29  $7\frac{1}{4}$ ,  $7\frac{1}{2}$ , depending on the location, as I said in the  
30 brief, the risk, but you can take it for all general





1 purposes now for prime residential properties the  
2 rate will be 7 to  $7\frac{1}{4}$  and the trend that was evident  
3 to  $6\frac{3}{4}$  is now slowly reversing.

4 MR. SEDGWICK: I see.

5 MR. FORTIN: I don't know if it will  
6 ever get back, but our indications --

7 MR. SEDGWICK: I suppose to some extent  
8 the rates that your members charge are tied to the  
9 rates that high-class securities yield, is that right?  
10 If their rate goes up, your rate -- you are risking  
11 somewhat greater --

12 MR. FORTIN: Yes, the competition for  
13 money is like with anything else. The cost of money  
14 is like the price of butter, being the interest goes  
15 up and down. Now if the situation arises where it  
16 is more advantageous to put your money, say, in the  
17 securities market, then there would be less money  
18 seeking outlet in the mortgage market and if the  
19 demand for mortgage loans remains constant their rate  
20 will go up. Likewise you must appreciate that the  
21 operation of a mortgage department is much more costly  
22 than of a securities department. Perhaps one can say,  
23 generalizing again, that you can operate a securities  
24 investment portfolio for, say, one-eighth of one percent,  
25 ordinarily. On the mortgage portfolio depending on the  
26 type of mortgage, whether the operations are national  
27 in character, whether you are building up a portfolio  
28 or whether you are reducing it, whether you are going  
29 merely on residential or whether you accrue large chunks  
30 of industrial money, it might cost you perhaps .65, .75,







1 .85, depending on the nature of the operations. So  
2 that thinking in terms of the gross interest rate  
3 obtainable you must give consideration to your net  
4 yield being affected by the cost of operating your  
5 mortgage department as opposed to your securities  
6 department.

7 MR. SEDGWICK: As to first mortgages,  
8 may we take it that the rate of the money at 10% would  
9 be the ceiling?

10 MR. FORTIN: Well, sir, that depends  
11 on conditions. If, for example, you come to a  
12 situation where you have a 6% refund on government  
13 bonds and the mortgage is offered to you which has  
14 some elements in it which you don't quite like, that's  
15 out of the way for administration purposes, well it  
16 could be that such a rate would not be sufficient.

17 MR. SEDGWICK: Just for the purpose  
18 of argument would it be fair to say, generally speaking,  
19 members of your Association would consider  $8\frac{1}{2}\%$  about  
20 a ceiling rate at this time?

21 MR. FORTIN: In a broad, general way,  
22 but if you sever it, unless it's, shall I say relatively  
23 high, you will in turn deprive some person of mortgage  
24 credit where having obtained the credit, even at a  
25 high rate, might make quite a nice thing out of it.  
26 There are such cases where a man borrows at 8% and that  
27 he, nevertheless, on a deal he is able to make 10%  
28 profit or 12% profit, so that the problem of defining  
29 or limiting a rate has the connotation that you also  
30 limit the opportunity for profit I dealt with before.







1 MR. SEDGWICK: Yes. Mr. Lawrence gave  
2 us a personal experience as to that. Then looking at  
3 paragraph 8 on page 5 -- I know that the cost varies  
4 from county to county because of varying legal and  
5 surveyor's fees, but thinking in terms of a \$10,000  
6 first mortgage loan in, shall we say, the County of York,  
7 approximately what would be the total of the borrower  
8 would pay for the items that you mention in paragraph 8?

9 MR. FORTIN: Might I ask Mr. Irwin to  
10 answer that?

11 MR. SEDGWICK: Yes. I just want the  
12 Committee to --

13 MR. IRWIN: (Inaudible)

14 MR. SEDGWICK: So that would be 125.  
15 What would the other items amount to?

16 MR. IRWIN: (Inaudible)

17 MR. SEDGWICK: Well, could we go down  
18 the list? First of all a certificate would be necessary  
19 if the borrower did not have a survey. Then the cost  
20 of appraising. What would that be in the case of a  
21 ten thousand dollar loan?

22 MR. IRWIN: (Inaudible)

23 MR. SEDGWICK: And the cost of a credit  
24 report? In the case of a loan, we will say, of the  
25 same amount?

26 MR. IRWIN: (Inaudible)

27 MR. SEDGWICK: About \$2.75, yes. And  
28 then, as you say, in the County of York the solicitor's  
29 fees would be 1 1/2%, and as to items 3 and 4 they would  
30 be disbursements, wouldn't they? Yes. Those would be





1 the only deductions on the loan? So that if they  
2 totalled, as we can see they would, about \$150.00  
3 altogether, the balance of \$850.00 would be paid to  
4 the borrower?

5 MR. IRWIN: (Inaudible)

6 MR. SEDGWICK: A little higher, but  
7 it would be about in that range, would it not? Yes.  
8 Then, Mr. Irwin, I don't know if this is your question  
9 or not, but Mr. Fortin made a reference to the Interest  
10 Act and its provisions and commences in paragraph 7 at  
11 the bottom of the page. And it says that it is  
12 required under the Act before the amount of principal  
13 money. Mr. Fortin, does that mean the principal money  
14 actually advanced? Or does it mean the principal  
15 money which shows on the mortgage as being the money  
16 advanced? What I had in mind is this: In cases where  
17 a bonus is paid, we control the mortgage payment of  
18 \$3,000 but only \$2,000, shall we say, is actually  
19 advanced. Does the Interest Act require that the rate  
20 be computed on the actual advance or on the face of  
21 the mortgage?

22 MR. IRWIN: Well, I think the Interest  
23 Act is as far as the amount advanced, actually paid.  
24 (Remainder inaudible).

25 MR. SEDGWICK: Well, I'm not sure either  
26 but it occurs to me that some of the mortgages that  
27 were brought before the Committee showed an advance of,  
28 shall we say, \$3,000 and a mortgage for something like  
29 \$5,000 and the interest was shown on the \$5,000. The  
30 report would have been a great deal more if







1 it had been computed on the actual advance.

2 MR. IRWIN: (Inaudible)

3 MR. SEDGWICK: I suppose it is a question  
4 you wouldn't be too familiar with because members of  
5 your Association avoid, if you possibly can, any  
6 question of bonus, is that right?

7 MR. IRWIN: Yes.

8 MR. SEDGWICK: If you want the cases of  
9 mortgages -- (rest inaudible)

10 MR. IRWIN: (Inaudible)

11 MR. SEDGWICK: And the figures are  
12 submitted to inspection from the advance, I suppose?

13 MR. IRWIN: (Inaudible)

14 MR. SEDGWICK: Would that be because  
15 it might be the house would be more saleable if the  
16 mortgage --

17 MR. IRWIN: (Inaudible)

18 MR. SEDGWICK: Are most of your  
19 mortgages amortized over their life?

20 MR. IRWIN: Yes.

21 MR. SEDGWICK: You do not, as a rule,  
22 have any balloon payment at the end of five, ten or  
23 fifteen years?

24 MR. IRWIN: Very, very few. (Rest  
25 inaudible)

26 MR. FORTIN: I would like Mr. Rose  
27 to speak to that question, if you wouldn't mind, also?

28 MR. ROSE: (Inaudible)

29 MR. SEDGWICK: I see. So there would be  
30 a renegotiation at the end of a fixed period, but still





1 no balloon payment. The borrower would still have the  
2 right to continue to amortize the loan over a period  
3 by six-monthly payments?

4 MR. ROSE: (Inaudible)

5 MR. SEDGWICK: I see. Because, of course,  
6 the risk is reduced because of the payments made.

7 MR. ROSE: (Inaudible)

8 MR. SEDGWICK: Well, it's a phrase that  
9 was new to me when I came here but it has been used by  
10 members of the Department as being that payment which  
11 is due at the end of the five or ten years. For  
12 instance, if the mortgage is \$3,000 and the monthly  
13 payments result in only \$2,000 being paid in five years,  
14 there would be \$1,000 principal which you would get at  
15 that time. I think that's what the officials have in  
16 mind when they speak of a balloon payment.

17 MR. ROSE: (Inaudible)

18 MR. SEDGWICK: But you do not invariably  
19 arrange the monthly payments so that at the end of the  
20 ten year period the mortgage would be paid off?

21 MR. ROSE: (Inaudible)

22 MR. SEDGWICK: I see. So that in your  
23 case at the end of, say, ten years the lender and the  
24 borrower will have to get together and arrange a new  
25 mortgage on terms according to the interest rate then  
26 prevailing, is that right?

27 MR. ROSE: Exactly.

28 MR. SEDGWICK: But you say it is the  
29 custom of your companies to review in all possible cases?

30 MR. ROSE: (Inaudible)







1 MR. SEDGWICK: And then I take it that  
2 you do not, as a term of renewal, insist on any bonus,  
3 you don't increase the capital sum as a condition of  
4 renewal? You just renegotiate with different rates?

5 MR. ROSE: (Inaudible)

6 MR. FORTIN: Might I point out that all  
7 National Housing Act loans are fully amortized.

8 MR. SEDGWICK: Yes, we knew that. I  
9 wanted to know what was the difference between the  
10 mortgages that you --

11 MR. FORTIN: Conventional? We do both.

12 MR. SEDGWICK: You do both.

13 THE CHAIRMAN: Mr. Bukator, do you have  
14 any questions?

15 MR. BUKATOR: Not at all.

16 THE CHAIRMAN: Mr. MacDonald?

17 MR. MacDONALD: I'd like to pursue some  
18 of the points that emerged out of Mr. Sedgwick's  
19 questioning because it seems to me they threw some  
20 new light on our problem. I don't know whether I'm  
21 talking to Mr. Sedgwick or Mr. Fortin --

22 This reference to the Interest Act, for  
23 example, did I conclude correctly from the questioning  
24 of Mr. Sedgwick that according to the Interest Act the  
25 interest should be charged on the money advanced and  
26 not on the face of the loan?

27 MR. FORTIN: That's right.

28 MR. SEDGWICK: Well, I understo~~od~~ that's  
29 what the witness said, but it's my clear recollection  
30 that we had examples of mortgages where the interest





1 was computed on the basis of the loan and not on the  
2 money advanced.

3 MR. FORTIN: If, for example -- take  
4 a transaction this way. Mr. Jones wants a mortgage  
5 loan and he doesn't quite know how much he wants -- he's  
6 building a house and it looks as if the cost might be  
7 ten thousand dollars. So he signs a mortgage for  
8 \$10,000 against his property. When the house is built,  
9 is finished, and there is no danger of liens and all  
10 that sort of thing, he finds he only needs \$8,000  
11 because meanwhile his mother-in-law gave him \$2,000.  
12 That mortgage goes at \$8,000 and he will pay interest  
13 on \$8,000. Now he may not have gotten \$8,000, he may  
14 have gotten \$7,800 and had advanced \$200 costs so that  
15 there was advanced to him \$8,000, -- \$2,000 to meet the  
16 costs he agreed to pay and \$7,800 cash and that is the  
17 amount you can collect on the mortgage, namely the  
18 amount advanced. Your collection on the mortgage is  
19 the debt owing.

20 MR. SEDGWICK: I think Mr. MacDonald  
21 and I had something different in mind.

22 MR. MacDONALD: I think the variation  
23 that you may have as a builder applying originally for  
24 a \$10,000 loan and ultimately getting \$8,000 is the  
25 kind of thing we can set aside. The proposition I am  
26 interested in is there is an \$8,000 loan. Now, let's  
27 separate out two details here. Suppose you say there  
28 is \$200 expenses. You are suggesting he pays interest  
29 on that \$200 as well? But this is where there's a  
30 bonus payment in it. Now, this is not the practice in







1 your instance, as I understand it. But it is a wide-  
2 spread practice. Is is a contravention of the Interest  
3 Act that the interest should be charged on the bonus  
4 too?

5 MR. FORTIN: It's not a contravention.  
6 I think to be doubly sure that you can collect it, it  
7 should be so specified in the mortgage. The trouble  
8 is that the borrower, not being fully aware of these  
9 things, often pays according to the contract even if  
10 he shouldn't have to pay because of these provisions.  
11 In other words, what I am saying is that the Interest  
12 Act says that there is no interest chargeable or  
13 recoverable in certain cases. If the borrower doesn't  
14 know that and he continues to pay, he pays --

15 MR. MacDONALD: Have you ever heard  
16 of a single instance where interest wasn't charged  
17 because of a violation in the terms you spell out?

18 MR. FORTIN: Well, I don't know, I'm  
19 not in the actual field, but I do know this that there  
20 are cases one reads in the paper where it seems to be  
21 obvious that if the borrower had known he would stop  
22 paying his interest and that it looked from the facts  
23 given that it's very doubtful that the lender could  
24 have recovered, because his mortgage was really against  
25 the provisions of the Interest Act.

26 For example, a mortgage saying that it's  
27 9% before maturity and 12 thereafter. If the borrower  
28 knows his stuff he needn't pay this because the Act --  
29 but if he doesn't know he will continue paying.

30 MR. MacDONALD: Well, that's clear cut





1 but I'd like to get Mr. Sedgwick or somebody to answer  
2 the question, is it in violation of the Interest Act  
3 to charge interest on the bonus as well as the amount  
4 of money that is actually advanced?

5 MR. FORTIN: It depends, Mr. MacDonald,  
6 on whether that --

7 MR. MacDONALD: Whether that is spelled  
8 out in the contract?

9 MR. FORTIN: Whether it is a violation  
10 in this sense. The Interest Act says that the person  
11 is entitled to stipulate whatever rate of interest is  
12 agreed upon. He does, but the Interest Act says also  
13 that in certain types of things he cannot recover  
14 interest if he does those things. Now, if the borrower  
15 pays them anyhow nobody is violating anything. It's  
16 a penalty against the lender and not a violation of a  
17 statute. That's the distinction I want to make. If  
18 the borrower can pay whatever he wants whether he has  
19 to or not, if he still wants to, why nobody violates  
20 anything.

21 MR. MacDONALD: Mr. Chairman, I don't  
22 want to bother Mr. Fortin in pursuing this, but I think  
23 we've got a whole new area here that -- I don't know  
24 who we get in to help us explore it further but there  
25 may well be here --

26 MR. IRWIN: Mr. Chairman, Mr. MacDonald,  
27 perhaps I could answer the question directly to get at  
28 it simply. It might give us an opinion to clarify it.  
29 In my experience if we look at paragraph 8 of the brief  
30 there are certain charges which are, in fact, deducted







1 from the principal amount stated to be repayable in the  
2 mortgage contract so that the borrower receives less  
3 than he is required to repay and I would imagine that  
4 in effect, does not the borrower agree with the lender that  
5 he is receiving the fact amount that he has undertaken  
6 to repay? So therefore, it seems to me to be a question  
7 only of degree.

8 MR. MacDONALD: The bonus too?

9 MR. IRWIN: Yes. In other words, if he  
10 has agreed that he has received \$10,000 when in fact  
11 he might only have received \$8,000 because of the bonus,  
12 then he has received the \$2,000. Is this true, Mr.  
13 Sedgwick?

14 MR. SEDGWICK: I do not know and I don't  
15 seem to have with me a copy of the Interest Act. But I  
16 certainly was of the opinion that the matter is as you  
17 stated it, that if he acknowledges having received  
18 \$10,000 even though he only receives \$8,000, he is  
19 obligated to pay back the \$10,000 with interest on the  
20 \$10,000. Now, that is as the facts have been explained  
21 to us.

22 MR. FORTIN: If the borrower says that  
23 he has received this \$200, it's been used to pay expenses  
24 he undertook to pay, has no part in it. If it is a  
25 bonus in the sense that we were talking about -- I think  
26 to be doubly safe the lender probably has to write it  
27 in the mortgage. Then if the borrower of the mortgage  
28 instrument has acknowledged receiving this money then  
29 he has to pay it.

30 MR. IRWIN: This is the point I --





1 MR. FORTIN: But I think to be safe the  
2 lender must spell it out in the mortgage.

3 MR. IRWIN: This I don't know. But I do  
4 know in practice there is an acknowledgment of the  
5 total debt whether he got it as a bonus or pay-out for  
6 legal fees or in any other way. To acknowledge that  
7 you received this as an advance on the mortgage, then  
8 you've had it.

9 MR. MacDONALD: Well, I think this is  
10 the very point, it's the way it works whether it should  
11 or not. Does your contract, in effect, then become  
12 an instrument for falsifying the situation and  
13 therefore you are not in violation of the Interest Act?  
14 But you are not in violation of the Interest Act only  
15 because the situation has been falsified.

16 MR. FORTIN: Of course, Mr. MacDonald,  
17 it need not be falsified because all you've got to  
18 do it to pay the man \$10,000 and signs it and gives  
19 you back \$2,000, that falsifies nothing. That can  
20 happen. The point I wanted to make, Mr. Sedgwick, is  
21 that I think when you look into the Interest Act you  
22 might look at it from the point of view that perhaps  
23 these provisions have application only to mortgages  
24 on the blended or sinking fund plan. As I said at the  
25 beginning, not being well versed in legal matters I --  
26 if you will notice in this paragraph we refer to  
27 mortgages payable on the sinking fund plan, the  
28 blended payment plan or any other plan -- so and so.  
29 Now, whether these provisions as I recite as to the  
30 greater rate of interest and so on are also applicable







1 to mortgages not expressed in these terms, I've heard  
2 it argued both ways and I leave it to you.

3 MR. MacDONALD: Well, Mr. Chairman, again  
4 we can leave it til later, but I have a little difficulty  
5 in understanding Mr. Sedgwick, if I heard him correctly,  
6 make a distinction between a bonus mortgage and a  
7 blended payment, because you can pay a bonus and then  
8 your payments are blended from that point forward but  
9 on the face of the mortgage?

10 MR. SEDGWICK: I think what the Interest  
11 Act says is that when there are blended payments then  
12 you must show how much is interest and how much is  
13 principal but that doesn't answer the question that  
14 you and I asked about whether the interest on the  
15 bonus is included or whether they just take the face  
16 of the mortgage. I still don't know.

17 MR. MacDONALD: Mr. Fortin, may I ask  
18 you one other question? Generally speaking, it's  
19 obvious from your brief that you are in favour of  
20 full disclosure as to the rates being charged, amounts  
21 and so on -- does that go to the point of -- well, let  
22 me ask you this question: Would a mortgagor be  
23 entitled to know what the unpaid balance of his  
24 mortgage was, say, at the end of a five year period?

25 MR. FORTIN: He can find out at any  
26 time. Some companies give him a little book like a  
27 passbook that shows if he makes his payments what is  
28 the amount left. He can ask the company at any time  
29 and he will get a statement of the balance left unpaid.  
30 But the general practice of our company is to --





1 MR. MacDONALD: Of the balance unpaid  
2 then, but what the balance would be unpaid at the end  
3 of the five year period?

4 MR. FORTIN: You mean at the beginning?

5 MR. MacDONALD: Suppose I have a  
6 mortgage for \$15,000, it's a five year mortgage  
7 amortized over a 16 year period. Will I, as the holder  
8 of the mortgage, be entitled to know what the unpaid  
9 balance would be at the end of the five years?

10 MR. FORTIN: Yes, any company will  
11 cheerfully give it to the mortgagor. Some companies  
12 provide, as I say, a schedule where he knows, he can  
13 make all his monthly payments, this is the balance of  
14 principal owing at the end of --

15 MR. MacDONALD: You may be interested  
16 to know that I happen to be in that position and I  
17 spent a half an hour on the phone and was persuaded  
18 by one company that they didn't have the information  
19 and they couldn't provide it for me.

20 MR. FORTIN: Well, you persevere and  
21 you will (Laughter)

22 MR. MacDONALD: Well, I will, you can  
23 be sure. But it is not their practice to do it. And  
24 I submit that under these circumstances it is one  
25 feature that buries what the true interest rate may be.

26 MR. FORTIN: I don't know about your  
27 latter statement, but I think it's a fact that by far  
28 the great majority of the class of lenders we are  
29 talking about are always prepared to give the borrower  
30 any information he wants as to the status of his loan.







1 MR. MacDONALD: Is the Canada Trust a  
2 member of your Association?

3 MR. FORTIN: Yes.

4 MR. MacDONALD: Well, they do not do  
5 so.

6 MR. FORTIN: Well, I'm surprised to hear  
7 that because there is no problem about it in any  
8 company. I'm quite sure that many of these gentlemen  
9 here always do that. There could be a mix-up. I'll  
10 make some inquiries about that.

11 MR. BUKATOR: May I interject at this  
12 time, Mr. Chairman. For Mr. MacDonald's information  
13 I have a Canada Trust mortgage on my home, it's coming  
14 due in February of next year, '64, and for information  
15 to myself I contact them by phone and said I wonder if  
16 you would let me know the pay-out at the end of my  
17 five years in February -- this is the Canada Trust.  
18 In a matter of a day or two I got a letter stating  
19 that when it became due and payable -- the five year  
20 term was used up in February, but I would be owing an  
21 x amount of dollars and they had it right to the last  
22 cent. It would appear to me a company like Canada  
23 Trust would have this for you. It would appear to me  
24 that someone, a junior in the office, has given you  
25 the wrong -- because that company --

26 MR. MacDONALD: I may have got the junior.  
27 I then went to somebody who was in the Mortgage Depart-  
28 ment and was given this information. In fact I was  
29 told the only way I could get it was to write to  
30 Boston. Boston produces these tables. This is the





1 point; the people working with the loan said they knew  
2 of no such table which could give a mortgagor the  
3 information as to the unpaid balance at that time or  
4 at the end of his mortgage even though the payments  
5 were regular payments, blended principle and interest.

6 MR. FORTIN: Mr. MacDonald, do you mean  
7 this is a mortgage, that you had borrowed a mortgage  
8 from them and that you couldn't find out what you  
9 owed them, or are you talking in the theory of  
10 amortization payments?

11 MR. MacDONALD: I am asking the simple  
12 proposition -- I hold a five year mortgage, what is  
13 my unpaid balance at the end of the five years?

14 MR. FORTIN: Now, Mr. MacDonald, I'll  
15 send you a set of mortgage tables, if you are talking  
16 about tables, where -- I don't know I think they may  
17 go from 5% to 7½, or whatever it is -- periodically  
18 these tables come out, they are called mortgage tables.  
19 I'd be glad to send you one.

20 MR. MacDONALD: I can get hold of these  
21 tables -- they are generally speaking --

22 MR. FORTIN: Every company has them.

23 MR. MacDONALD: I know that. The answer  
24 was that they have to calculate the interest from month  
25 to month and that they couldn't give it to me as to  
26 what the unpaid balance would be.

27 MR. FORTIN: Well, if it is not a queer  
28 mortgage, in the sense of peculiar terms, these tables  
29 are quite a bit involved -- I haven't got one with  
30 me but every lender hands them out to lawyers and one







1 thing and another.

2 MR. IRWIN: Mr. Chairman, I certainly  
3 can throw this light on it that I am surprised to hear  
4 this because in my experience these are readily  
5 available in the offices of the mortgage people. The  
6 only thing that could possibly arise, and I have run  
7 into this, is that very often they put up a wall of  
8 resistance, if you are inquiring about somebody else's  
9 mortgage, not your own. If you are inquiring about  
10 your own or you have written authority from a client  
11 to obtain this information there is no trouble, but  
12 if you are just asking for information with respect  
13 to somebody else's mortgage they often will not --

14 MR. BUKATOR: Well, this is customary.  
15 Speaking now as a real estate broker, there are times  
16 that we will contact -- by selling a home -- we will  
17 contact a company that has -- let's say here, the  
18 Royal Trust -- that has the mortgage on that home and  
19 we want the pay-out of that date. Often we will be  
20 told as brokers that this information is not available  
21 to you, it must come, the request must come from the  
22 man who borrowed the money and if he wants us to send  
23 it on to you let him illustrate by way of letter. Now,  
24 this may be the problem that Mr. MacDonald speaks of,  
25 but I find that this particular company that he  
26 mentioned, Canada Trust, did forward to me the infor-  
27 mation that I wanted and it happened to be a 15 year  
28 mortgage and I know exactly what will have to be paid  
29 at the end of the five years because it happened to be  
30 on my own home. Now, I can either do one of two things;





1 I can pay it off at that time or renew it with them  
2 by the adjustment of the rate of interest. I hope it  
3 will come down.

4 MR. FORTIN: You had no trouble getting  
5 that information?

6 MR. BUKATOR: Oh, I had it immediately,  
7 within the day, I think. But they did refuse me on  
8 different occasions, lots of companies have, because  
9 it's none of your business, even though you are a real  
10 estate broker. It's the business of the man who borrowed  
11 the money and let him tell us if he wants you to have  
12 this information and you will have it in a few days  
13 time.

14 MR. FORTIN: The member is subject to  
15 certain risks in handing out to other people what is  
16 another person's business. If he asks for it then  
17 he can pass it on to whom he pleases himself.

18 THE CHAIRMAN: Mr. White, do you have  
19 any questions?

20 MR. WHITE: I'd like to resolve one  
21 point. As I understand it, conventional lenders very  
22 often restrict the term of the mortgage to five years  
23 although it is amortized over a 20 year period or  
24 something of that nature. At the end of the five years  
25 say the mortgage falls due and then, as this gentleman  
26 has told us, almost always it's renewed at the current  
27 rate of interest. Of course, if the mortgagee is a  
28 reputable firm the mortgagor is not jeopardized in any  
29 way. If the mortgagee is unscrupulous then that  
30 principal amount falls due at the end of the first five







1 year term and then the mortgagor may be required to pay  
2 a very substantial bonus. And perhaps a higher -- well,  
3 I'm saying this particularly in the second mortgage  
4 field -- and we have had cases like this described to  
5 us in this Committee..... describes a similar case  
6 where a householder is sort of put into debt in  
7 perpetuity always paying off only the loans. This is  
8 a vicious cycle among sophisticated borrowers and I  
9 am wondering if the appropriate government shouldn't  
10 require the mortgagee to renew a mortgage at the  
11 mortgagor's option at an interest rate of perhaps a  
12 one or two percent spread from the original rate. This  
13 will accommodate reputable firms who will be able to  
14 move up a little bit if the current interest rate has  
15 risen in the five year interval. It will presumably  
16 protect the mortgagor, if rates have gone down but  
17 it will eliminate this very vicious practice of  
18 charging bonuses every few years and I am wondering  
19 if these gentlemen, Mr. Chairman, would comment on that?

20 MR. FORTIN: Well, Mr. Chairman, speaking  
21 to the question -- the interest there is a one-way  
22 street, in favour of the borrower. I, as a lender,  
23 make a loan. The borrower wants it for ten years and  
24 he agrees with me that the rate is 7%. If that borrower  
25 is an individual and at the end of five years money  
26 rates haven't come down, he comes to me and says, "Take  
27 your money back." If the rates have gone up, I'm  
28 stuck with the original rate I agreed upon. In other  
29 words the right of repayment given to the borrower in  
30 the Interest Act means that he gets the breaks. Now,





1 as loan and trust companies --

2 MR. WHITE: Excuse me for interrupting,  
3 but that's on the assumption that there is a renewal  
4 clause?

5 MR. FORTIN: No, under the Interest Act  
6 he has the right at the end of five years to tender up  
7 the money with three months bonus.

8 MR. WHITE: He has the right --

9 MR. FORTIN: To tender the money with  
10 three months bonus and the lender has to take it, that  
11 is if he is an individual, not a corporation.

12 MR. WHITE: But I mean the mortgagee in  
13 that case might have to pay a higher rate of interest  
14 if the interest has gone up very much?

15 MR. FORTIN: Yes, but he won't tender it  
16 if it has gone up because the borrower usually has to  
17 borrow the money. If he has a contract at 7% and the  
18 rate he would have to pay is 9%, you can be sure he  
19 won't repay me. He will repay if the rate is lower than  
20 the original rate and leave the lender with his money  
21 to put up at the lower rate.

22 MR. WHITE: Assuming a ten year term?

23 MR. FORTIN: Any term, longer than five  
24 years.

25 MR. WHITE: They are not writing them  
26 longer than five years -- insurance companies --

27 MR. FORTIN: Oh, yes.

28 MR. WHITE: It's not the practice, as I  
29 understand it.

30 MR. FORTIN: There are mortgages written





1 for fifteen years or twenty years, twenty-five. A great  
2 many of them are written for twenty years, that is,  
3 principally loan and trust companies, some are written  
4 for ten years, perhaps the average for loan and trust  
5 companies might be, say, twelve years. Now, the reason  
6 for the five year term is that loan and trust companies  
7 generally borrow short and they must, therefore, equate  
8 their return they get to the cost of the money to them.  
9 Competition for mortgage business is pretty stiff and  
10 more than once would you get no business if you limited  
11 yourself to five year term. So that in the play of the  
12 market you have to meet your competition, the competition  
13 may be from private individuals, may be from lawyers  
14 and their estates, might be from gratuities, from  
15 almost anybody because mortgage business is open to  
16 everyone. So that while there is such a thing as a  
17 general, super-liking, shall I say, for a five year  
18 mortgage, it does not follow that the mortgages put  
19 out by loan and trust companies are limited to five years.  
20 I think Mr. Rose, you could verify that in your own  
21 case?

22 MR. ROSE: I think, Mr. Chairman, that  
23 ten years is probably average (rest inaudible)

24 MR. WHITE: Is the average term ten years  
25 including the NHA mortgages?

26 MR. ROSE: I'm sorry (rest inaudible)

27 MR. FORTIN: On that point, the life  
28 companies, of course, the nature of their business being  
29 exceedingly long term, will make mortgages perhaps of  
30 an average of 20 or 25 years, whether they are







1 conventional or otherwise. Not necessarily on every  
2 type of loan. Perhaps you might speak to that, Mr. Irwin,  
3 On the basis of your own experience.

4 MR. IRWIN: (Inaudible)

5 MR. BUKATOR: Well, I've got three mortgages  
6 and the life insurance companies concerned will never  
7 give any more than five years so they don't think much  
8 of me, I guess.

9 MR. WHITE: That's beside the point.  
10 The point I am trying to get at is that -- is there  
11 some way of avoiding this, particularly in second  
12 mortgages, by giving the mortgagor the option of  
13 renewing it, even though there may be a little flexibility  
14 in the interest rate itself?

15 MR. FORTIN: Of course if you make  
16 mortgage lending still more of a one way street what  
17 you do is you decrease the supply and in time you have  
18 nobody prepared to make that type of investment. After  
19 all, both the lender and the borrower have a position  
20 to maintain and if you force the lender to remove at  
21 that time then he will seek to get such types of loans  
22 as will tend to make him reasonably sure that he's  
23 not going to have any trouble and it means that the  
24 marginal and sub-marginal risks just may not get any  
25 loans. That's the big danger in trying to direct  
26 everybody's business and if you -- there are a lot of  
27 other things you could do but it would just stop the  
28 business that's all. People would put their money  
29 elsewhere.

30 MR. WHITE: The market would dry up?





1 MR. FORTIN: That's right.

2 MR. WHITEHEAD: Assuming with all that  
3 that the mortgagor hasn't kept all his payments up, the  
4 mortgagee will be released from this automatic renewal  
5 clause and assuming flexibility of interest -- I'm  
6 assuming all the conditions that Mr. Rose has told us  
7 would qualify one of his mortgagors for renewal -- I  
8 am now wondering if the practices now being used by  
9 reputable firms couldn't be imposed on unscrupulous  
10 lenders?

11 MR. FORTIN: I doubt, sir, that you can  
12 impose them, shall I say by law. They arise from a  
13 combination of the type of business you do and not  
14 because the law won't let you do that sort of thing.  
15 One of the troubles is that, as I said before, that  
16 everybody can go in the mortgage business; some of  
17 the boys are sharper than others; and some are more  
18 greedy than others. Some borrowers are dumber than  
19 others and put them all in the mill and you get some  
20 abuses. Speaking entirely personally, not from any  
21 Association point of view, but I doubt exceedingly that  
22 you can make all the borrowers or all of the lenders  
23 saintly in their approach to each other. I doubt that  
24 exceedingly.

25 THE CHAIRMAN: Mr. Belanger?

26 MR. BELANGER: Yes, I have a few  
27 questions that I wanted to ask. Mr. Fortin, I presume  
28 this Association is all across Canada, I presume?

29 MR. FORTIN: Yes, it's members generally  
30 do business all across Canada.







1 MR. BELANGER: And you have members  
2 throughout the Province of Ontario?

3 MR. FORTIN: Yes.

4 MR. BELANGER: I was quite interested  
5 in what you said here in paragraph 6 on page 4. You  
6 said, "Both the demand and supply factors differ in  
7 respect of different types of property and so the  
8 interest rate applicable to mortgages on residential  
9 property will differ from that applicable to mortgages  
10 on property other than residential". Now you mentioned  
11 something a while ago about the risks you have to take.  
12 Does the economic factor come into that consideration?

13 MR. FORTIN: Yes.

14 MR. BELANGER: It does?

15 MR. FORTIN: Yes. It could be that  
16 conditions are such in a particular category that --  
17 let's say because of high municipal taxes which rank  
18 ahead of a first mortgage -- where you would be very  
19 wary in the amount you would lend on a particular  
20 property, or if you would lend at all. If you had a  
21 municipality that was unable to meet its own obligations,  
22 its debentures -- as we've had an ancestry of that --  
23 you couldn't get mortgage loans except of a very low  
24 relative amount to the lending value and perhaps not at  
25 all.

26 MR. BELANGER: Supposing we say that the  
27 --- (rest inaudible) Again, would that have a factor  
28 into the interest figures you charge?

29 MR. FORTIN: Yes. It would also result  
30 in difficulty in getting loans at all, so much so that





1 a lender of the type we are talking about would prefer  
2 not to make the loan rather than to charge the rate  
3 of interest which he considers to be sufficient to cover  
4 the extra risk. For example, where there is a lot of  
5 unemployment and the people there, well, they have got  
6 some debts, Joe Doakes wants to borrow. His employment  
7 is doubtful and the lender will tend not to lend until  
8 there is a glimmer of light as to what the picture is  
9 going to be. He's not going to charge him 15% and make  
10 a loan, he'd rather not make the loan and buy a peck of  
11 trouble.

12 MR. BELANGER: In other words, in certain  
13 municipalities the people concerned would have to go  
14 to the type of lender that we have had here in order  
15 to get money to pay those high interest charges?

16 MR. FORTIN: I should qualify that, sir,  
17 that there will be some cases where NHA loans, if it's  
18 for new residential, may be available because of the  
19 partial insurance in the NHA.

20 MR. BELANGER: I wonder if you would --  
21 in paragraph 7, I know that you have read it already,  
22 but I wonder if you could give us some idea -- (rest  
23 inaudible)

24 MR. FORTIN: A man owes you \$10,000 and  
25 you provide that through amortization over a ten year  
26 period and he is going to pay back \$7,000. At the end  
27 of the term there is ~~what amount~~ ~~still owing of~~  
28 \$1,000. That is what I understood you to refer to as  
29 a balloon. Now, that -- the payment of that \$1,000  
30 can either be required immediately or it can be







1 incorporated in the renewal of the mortgage or the  
2 balance on terms then mutually satisfactory to the  
3 borrower and the lender. Our companies, being  
4 essentially interested in investment of money, can have  
5 no object in refusing to renew, because they've got to  
6 put the money someplace. If I have a borrower who is  
7 paid off, say \$8,000 of a \$10,000 debt, I think he is  
8 a pretty good borrower so I would be delighted to give  
9 him some more time to pay that \$2,000. No object in  
10 me forcing the \$2,000 because then I've got to go  
11 some other place and relend it. That's the balloon end  
12 of it. In other words the monthly or quarterly payments  
13 required in the mortgage do not cover the whole of the  
14 debt always. And the balance of the debt owing at  
15 maturity then has to be taken care of. Oftentimes the  
16 borrower pays off, sometimes he can make a better deal  
17 with another lender, in which case he would pay you off  
18 with the proceeds of a loan taken somewhere else. More  
19 frequently he will prefer to arrange with the old lender,  
20 his former lender, his present lender for renewal of  
21 the balance. On the other question I think you were  
22 leading to, if a man signs a mortgage of \$10,000 and  
23 there are \$200 of costs, such as we described before,  
24 a borrower can either give you his cheque for \$200 as  
25 being the expense involved or he authorizes you to  
26 reduce the advance on the mortgage to him by the amount  
27 of the costs incurred which he has agreed to. So that  
28 if the mortgage is to be a full paid up, he will get  
29 \$9,800 of cash and will have paid for it \$200 of  
30 expenses and his debt is \$10,000, if he repays it







1 according to the terms of the mortgage as to principal  
2 and interest.

3 MR. PRICE: Normally it would be handled  
4 that way, wouldn't it?

5 MR. FORTIN: It's much simpler. As a rule  
6 a borrower who wants a \$10,000 loan hasn't got \$200  
7 to give you. But it is a payment made by the lender  
8 on the authority of the mortgagor, otherwise the  
9 mortgagor does not get the loan. He has to pay those  
10 expenses, or he agrees to pay them. Does that answer  
11 your question?

12 MR. BELANGER: Yes, thank you very much.

13 THE CHAIRMAN: MR. Reilly?

14 MR. REILLY: Actually the brief was  
15 quite clear and straightforward. I appreciated the  
16 comments of Mr. Fortin. The only thought I had in  
17 mind, Mr. Chairman, was something about the organization  
18 itself. Do you solicit membership in the organization,  
19 Mr. Fortin?

20 MR. FORTIN: No, sir. The Association  
21 is limited for membership to insurance companies, trust  
22 companies and loan companies of the type which are  
23 suitable for registry under the Loan and Trust Corpor-  
24 ations Act.

25 MR. REILLY: A mortgage broker wouldn't  
26 be eligible for membership?

27 MR. FORTIN: No loan company which is  
28 not registerable under the Loan and Trust Corporations  
29 Act is eligible for membership.

30 MR. REILLY: Now, for instance, you have





1 one bank, what about the other banks?

2 MR. FORTIN: This is a savings bank, sir,  
3 in Montreal which, because of the nature of its securities  
4 investments has belonged to the Association since 1920,  
5 I believe. In other words our problem, our work, is  
6 not limited to mortgages. It is to protect the invest-  
7 ments of member companies whether the investments are  
8 bonds, debentures, municipal, provincial, corporations,  
9 stocks or what have you.

10 MR. REILLY: Annual fee?

11 MR. FORTIN: That depends, sir, on the  
12 ratio of each company's assets of certain types to the  
13 total. But you have to be an insurance company, a  
14 trust company or a loan company registerable under  
15 the Loan and Trust Corporations Act to qualify for  
16 membership.

17 MR. REILLY: Thank you very much, Mr.  
18 Fortin.

19 MR. BELANGER: I have just one last question  
20 here. You have been dealing with residential property  
21 here, what about commercial, is the rate quite a bit  
22 higher?

23 MR. FORTIN: Once again that depends  
24 on the whole market set-up. Oftentimes they may be  
25 a quarter or a half up, other times they might not be  
26 too different. You appreciate that there are commercial  
27 and commercial. If, for example, you are lending on a  
28 number, say, of filling stations and you have the  
29 guarantee of one of your national oil companies behind  
30 those particular mortgages on these particular filling







1 stations, your rate won't be that much higher. You may  
2 have a kind of physical structure on a location which  
3 will command a low rate and you will have another kind  
4 that will command a high rate and I may say that on  
5 these commercial and industrial the would-be lender  
6 does a lot of shopping around and you have to meet  
7 whatever the going rate is at the time. There are  
8 some companies who do not make commercial or industrial  
9 loans. There are some who do a greater proportion than  
10 others. Once again perhaps Mr. Rose might talk on  
11 that for us?

12 MR. ROSE: (Inaudible)

13 THE CHAIRMAN: Mr. Irwin, I believe, has  
14 a question.

15 MR. IRWIN: Mr. Chairman, I wanted to  
16 raise the matter of principal, particularly because of  
17 the presence of four or five people in this room. The  
18 question is this: In dealing with certain people who  
19 appeared before this Committee where bonuses, brokerage  
20 fees and other charges of a substantial nature have been  
21 made to the borrower and the result has been that the  
22 borrower has received a good deal less in cash than the  
23 amount which he has undertaken to repay. And in order  
24 to evaluate the effect of these charges, for example,  
25 if a man has undertaken to repay a mortgage of \$3,000  
26 there may have been bonuses and charges and other things  
27 such that he only received two, and there-fore in  
28 evaluating the effect of the \$1,000 we have been in the  
29 practice of considering that to be convertible to a  
30 rate of interest per annum. Now, in principle, -- don't





1 think I'm trying to be critical, I'm just trying to get  
2 a discussion. On page 5 you gave a list of charges  
3 which are the responsibility of the borrower which he  
4 has agreed are payable by the borrower by way of deduc-  
5 tion from the face amount of the mortgage so that he gets  
6 less than the amount he undertakes to repay so that in  
7 kind, at any rate, the circumstances are exactly  
8 similar. They are substantially different in degree,  
9 I realize. Would it be fair to cause yourselves, as  
10 reputable bankers, to restate your effective rate of  
11 interest which might be 7% to take into account the  
12 effect of converting these charges into an annual  
13 interest rate so that you would advise the borrower  
14 that he was really paying  $7\frac{1}{2}$  instead of 7?

15 MR. FORTIN: Let's put it this way: These  
16 costs we are talking about are actually an advance of  
17 money by the lender. The lender actually has disbursed  
18 that money to the borrower or on his instructions to  
19 pay his bills, so that the amount of money which you  
20 have loaned that man is the cash you gave him plus the  
21 money that you used on his behalf to pay the expense  
22 of obtaining it, so that to us there can arise no  
23 question that these expenses can be anything like the  
24 nature of a bonus. They are disbursements made to  
25 him or at his behest and the money does go out of the  
26 lender's pocket.

27 MR. SEDGWICK: To put it bluntly it would  
28 be the same thing if you gave him the cheque for  
29 \$10,000 and then said, "Will you please give us a  
30 cheque for these expenses which we have incurred on your





1     behalf, amounting to \$200.00.

2                     MR. FORTIN: That's right.

3                     MR. MacDONALD: But is there any  
4     difficulty in restricting the deductions that might be  
5     made from the face value of the mortgage? I mean, all  
6     of these charges are legitimate charges. What we are  
7     searching for in this Committee here, is to avoid these  
8     abuses and disreputable lenders. Would you object to  
9     a proposition that the law would specify that these are  
10    these legitimate deductions, and no others, could be  
11    permitted because it gets into the area of an abuse?

12                    MR. FORTIN: I wouldn't like you to just  
13    take these particular ones because there are, in some  
14    cases, different types of expenses. But I have no  
15    objection to the statement that, in a general way, that  
16    you may charge as stipulated. The National Housing  
17    Act does so. It says that you shall not charge the  
18    borrower --

19                    MR. MacDONALD: Could you give me an  
20    example of what you feel what might be another legitimate  
21    deduction in other circumstances?

22                    MR. FORTIN: For example, there might  
23    be an inspection fee where the lender, to cover the  
24    cost of inspecting the property during progress of  
25    construction, which is a fee. In other words, somebody  
26    who is familiar with construction will go on the site  
27    and inspect it and keep in touch with the builder and  
28    we charge a fee for it. Another company may not. A  
29    lender may have that done by someone on a fee basis and  
30    still another company may do it itself. Some may charge,







1 some may not. I think the problem is that if you  
2 attempt to be -- to pin-point the kind too much you  
3 bring other troubles because you may result in driving  
4 underground as some of these things which are too  
5 precise -- I think the same thing can be described in  
6 a number of ways and you run into the danger of driving  
7 underground.

8 MR. IRWIN: Could I pursue this -- the  
9 problem, as I see it, and I don't care to be picayune  
10 about this, is that in trying to evaluate the incidence  
11 of cost of money to the borrower in the case of some  
12 instances which have been quoted to us, it has been  
13 easy, or at least the easiest way of evaluating them,  
14 to take all the charges with the interest, dump them  
15 all together and equate this to an annual interest  
16 charge. Now, if it would be proper merely as a measure,  
17 not saying the measure in itself is good, but if we  
18 are measuring those people by that method then we  
19 should measure you by that method too. And I'd like  
20 your reaction to that.

21 MR. FORTIN: Except that no matter what  
22 lender -- whether he's an installment lender or anybody  
23 else -- if he actually pays out the money, it is  
24 different than if he simply adds to the loan by a fee  
25 which he puts in his pocket. So that if the criterion  
26 is that this is money actually disbursed by the lender,  
27 then it is that on which your rate of interest does  
28 apply and in the case of our mortgages that is exactly  
29 what is done today.

30 MR. IRWIN: In other words you are saying





1 that there should be some means of distinguishing between  
2 the type of charge which represents a true and proper  
3 disbursement on the part of the lender from those  
4 other charges?

5 MR. FORTIN: Yes, because if the lender  
6 pays it out he's out that money and is entitled to a  
7 return on it. It's a different thing if he slips a  
8 couple hundred bucks in his pocket by way of a commission  
9 or bonus. You can argue that he never did pay it  
10 out but in the case of the kind of mortgages we are  
11 talking about, we actually disburse this money.

12 MR. IRWIN: Well, I think this is  
13 very interesting in that we are talking about a matter  
14 of great difference in degree, but in principle then,  
15 in evaluating some of these second mortgage situations  
16 we ought to be able to distinguish between the  
17 legitimate disbursements and these extra charges that  
18 are made which are merely an unwarranted burden on  
19 the borrower. That leads me to another question -- I  
20 don't know whether you gave a comment particularly on  
21 this -- but one of the -- again using the same principles  
22 of evaluation on installment contracts -- it seems the  
23 easy thing to do to take all the charges, whatever  
24 they are, insurance service charges, they call them,  
25 interest rate, lump them all together, relate that  
26 to the principal sum received by the borrower and equate  
27 that to some kind of an annual interest charge. And  
28 one of the arguments advanced by finance companies and  
29 others is that that's not fair because it costs them  
30 money to service the loan and they should not be treated







1 as part of an interest calculation. Now, in your case,  
2 I gather, you are absorbing these costs of servicing  
3 the loan?

4 MR. FORTIN: It's the cost of doing  
5 business. Plus the collection, and so on. Mind you,  
6 we have to get a rate of interest sufficient to meet  
7 your costs, the costs of operation, and a margin.  
8 Otherwise you just can't stay in business. But the  
9 cost of operation is the lender's cost and if he can  
10 operate more successfully on lesser cost then he makes  
11 more profit and he's able to meet competition still  
12 further. But it's not in the same -- we don't suggest  
13 that the lender should begin to pay something extra  
14 because you have a stenographer who earns \$60 a week.

15 MR. IRWIN: This is the part I'm trying  
16 to get at. In other words, if it, in principle -- not  
17 in degree but in principle -- if it is correct or  
18 proper administration that the lender absorbs the cost  
19 of staying in business, of servicing the loan, then he  
20 ought not to add that as an identifiable service charge.  
21 If he has to have 20%, let's say, per annum in order to  
22 stay in business, it ought to be stated as 20% and not  
23 10% interest and \$10.00 service charge -- that would be  
24 your view?

25 MR. FORTIN: I've had little experience  
26 in that field, but my own personal view would be that  
27 way. I don't know anything about the consumer business.

28 MR. IRWIN: The point I am trying to  
29 establish here, Mr. Chairman, or bring out, is that I  
30 think that we have to give some thought to the principles





1 involved. Is it appropriate for a finance company to  
2 say their cost is a service charge and these companies  
3 absorb that cost although it's a great deal less in  
4 degree. We have to develop what is properly considered  
5 to be interest and what other charges there may be.  
6 That's all.

7 MR. FORTIN: May I just add one word.  
8 There are cases where, let's say a trust company -- we  
9 administer a mortgage on the account of somebody else  
10 for which it will charge a fee. That mortgage is not  
11 the trust company's money, it is merely the collecting  
12 agency, the procurer of the mortgage, if you like, and  
13 so on. And that is a cost of that lender.

14 MR. SEDGWICK: A charge to that lender?

15 MR. FORTIN: That's right.

16 MR. SEDGWICK: You are thinking of  
17 estates, for instance?

18 MR. FORTIN: That's right, or agencies.

19 MR. SEDGWICK: Sure. And the lender  
20 adds that to the trust company service charge, but not  
21 the borrower?

22 MR. FORTIN: No, that's not what we're  
23 talking about.

24 MR. IRWIN: There are a couple of other  
25 facts I wanted to ask. Do your companies generally  
26 engage in these syndicated mortgage arrangements where  
27 one commercial mortgage may be too large for one  
28 company? What do you do in those cases?

29 MR. FORTIN: There are a number of  
30 arrangements. For example, four companies might agree





1 to put a 10 million dollar loan on a hotel, each company  
2 agreeing to take a share of it, each company relying  
3 upon, say, the Manager of the group to service the loan  
4 and to process it and so on. And there is no differ-  
5 ential in interest rate that I know of with that kind  
6 of loan except that it is a loan participated in by  
7 two or more members jointly.

8 MR. SEDGWICK: It would generally be in  
9 the form of a debenture, wouldn't it?

10 MR. FORTIN: Well, sometimes, but not  
11 necessarily. On straight real estate it may be in the  
12 form of a mortgage in which eight companies would have  
13 a piece.

14 MR. IRWIN: The other point I wanted to  
15 establish is: When the lender, like in your case,  
16 on page 6, the second paragraph, you speak of the  
17 stand-by fee of the buyer to avoid the situation where  
18 he may merely be using your --

19 MR. FORTIN: Your the goat --

20 MR. IRWIN: Yes, he's using your loan  
21 as the leader in other directions. At what point,  
22 though, are you and he jointly committed to a loan?

23 MR. FORTIN: Well, when he applies for  
24 the loan and you give him a letter of commitment, the  
25 lender is committed to making the loan but you can't  
26 force money down a borrower's throat. So meanwhile he  
27 has gone to someone else and got a better deal. You  
28 never hear from him again and if you commit yourself, say,  
29 to have available for disbursements to him in four  
30 months time two million dollars and you have arranged







1 your investments in short term obligations on which  
2 the return is lower so as to be prepared to meet your  
3 commitments, he doesn't show up. To protect yourself  
4 you say to him, "All right, we will give you a firm  
5 commitment. You give us \$2,500.00. If you take that  
6 loan we will give you back the twenty-five, but if you  
7 don't take it, we keep it". Although there are some  
8 cases where the amount is large and the term is long.  
9 Suppose you are required to commit yourself two years  
10 in advance for a large amount of money. You probably  
11 make an agreement with your borrower and he agrees to  
12 it, that a stand-by fee will not be returnable to him  
13 unless he wants the loan before that particular date.  
14 There are all kinds of arrangements and they depend on  
15 the credit worthiness of the would-be borrower, the  
16 experiences you have had with him or people like him  
17 in the past and the kind of property he is dealing  
18 with.

19 MR. IRWIN: The letter of commitment  
20 is an irrevocable offer?

21 MR. FORTIN: Well it is, of course, upon  
22 its face, conditional on certain things -- proper  
23 construction and what have you; it is irrevocable to the  
24 extent that you are not committed if you don't get  
25 the priority, for example.

26 MR. REILLY: Mr. Chairman, before he  
27 leaves that point, that letter of commitment only  
28 applies to large commercial or industrial firms? It  
29 doesn't apply to a residential mortgage?

30 MR. FORTIN: I think it does. You agree





1 to give Mr. Jones a loan for \$10,000 and you recite  
2 the conditions, you recite when you will pay it out  
3 to him. Maybe it's one-fourth when the first floor  
4 joists are up and one-fourth when the roof is on and  
5 one-fourth when the rough plaster is on and the balance  
6 when the house is virtually completed. That's all  
7 set out and there is a custom pretty well known in  
8 the trade that all these things are pretty well the  
9 same, but the letter of commitment from one company  
10 may differ in wording from the language of another  
11 company, generally speaking they are pretty well all  
12 the same. If you are too stiff or you won't give  
13 service, you won't get the loan.

14 THE CHAIRMAN: I wonder if any of the  
15 other members have questions at this time? Well,  
16 before we adjourn the meeting I think Mr. Joyce is  
17 here. You might like to see him. ~~Will you~~ stand up,  
18 Mr. Joyce? And Mr. Close is here, as well and Mr.  
19 Nelson.

20 Thank you very much, gentlemen, for  
21 coming this morning. We appreciate it. Mr. Close, do  
22 you have some remarks you wish to make to the Committee  
23 this morning? Thank you very much, Mr. Fortin.

24 MR. CLOSE: Do you have a copy of our  
25 brief? Many of the comments which we have heard here  
26 have been discussed this morning at some length, so with  
27 your permission, sir, would you like me to read our  
28 brief or --

29 THE CHAIRMAN: What's the pleasure of  
30 the members of the Committee? I imagine there would be







1 considerable duplication here but would you prefer that  
2 the brief be read?

3 MR. REILLY: I think I would prefer that,  
4 Mr. Chairman. I would prefer to hear it.

5 THE CHAIRMAN: Right.

6 MR. CLOSE: "Mr. Chairman and members of  
7 the Select Committee of Consumer Credit: You are in  
8 possession of a brief presented to your Committee by  
9 the Dominion Mortgage and Investment Association. The  
10 Royal Trust Company is a member of the Association and  
11 has had the opportunity of examining the brief before  
12 its submission to you. Although the brief contains, in  
13 our opinion, an accurate summary of the mortgage lending  
14 policies of the member Companies, it has been suggested  
15 that an individual brief by The Royal Trust, giving a  
16 more detailed report on our own lending policies, might  
17 be of assistance to your Committee. I am pleased there-  
18 fore to present the following notes on behalf of our  
19 Company to be used in conjunction with the information  
20 contained in the Association brief.

21 "In a letter, dated 18th June, from your  
22 Chairman, you indicated that you were to examine, study  
23 and report on all matters relating to the actual cost  
24 of credit to consumers, including mortgagors. We  
25 assume that, in the mortgage field, your attention is  
26 being directed more particularly to second and third  
27 mortgages. We make this observation only to indicate  
28 at the start that, as an institution, we confine our  
29 mortgage lending, generally speaking, to first mortgages  
30 not exceeding two-thirds of the appraised value of the





1 property.

2 "We might also point out at this stage  
3 that our Company also makes personal loans secured by  
4 collateral. Whereas our Company has by no means entered  
5 into wide open competition with the banks in this field,  
6 we favour reasonable expansion in the granting of  
7 adequately secured loans to clients and others connected  
8 with, or friendly towards, the Trust Company. We insist  
9 on collateral security being hypothecated to supplement  
10 a satisfactory personal covenant. More will be said  
11 below with respect to collateral loans.

12 RESIDENTIAL MORTGAGE LOANS

13 "In examining mortgage loan applications,  
14 The Royal Trust Company applies the techniques referred  
15 to at Pages 3 and 4 of the Association brief as regards  
16 the lending value of the physical property as well as  
17 the credit worthiness of the applicant. These factors  
18 play an important role in deciding first of all whether  
19 or not the loan should be made, and secondly on what  
20 terms the loan should be made, including the interest  
21 rate to be charged. As you will see from the following  
22 paragraph, however, there is little spread in the inter-  
23 est rates charged at any given time on residential loans."

24 If I might interject, sir, here, in view  
25 of some of the previous comments -- under no circum-  
26 stances does The Royal Trust Company ever collect or  
27 charge bonuses and as a further addendum questions  
28 from various and answers -- statements rather from Mr.  
29 Fortin in answer to a question that in an area where we  
30 would allow them, we wouldn't simply raise the rate of





1 interest. If the rate of interest, or the loan appears  
2 to demand a rate of interest in excess of our normal  
3 rates, we prefer not to make the loan.

4 "INTEREST: The interest rate charged for conventional  
5 residential loans across the country runs at the present  
6 time from a minimum of  $6\frac{1}{2}\%$  to a maximum of  $8\%$ . The  $8\%$   
7 rate exists in some parts of the country including the  
8 Maritimes. The minimum rate is usually  $1/2$  of  $1\%$  above  
9 the current N.H.A. rate.

10 "In Ontario the current interest rate  
11 spread is between  $6\frac{3}{4}$  and  $7\frac{1}{2}\%$  with most loans being  
12 made at  $7\%$  to  $7\frac{1}{4}\%$ . Interest on all loans is compounded  
13 semi-annually and whereas more than  $80\%$  of the loans now  
14 on our books (including older loans) are on a monthly  
15 repayment basis by way of blended payments of principal  
16 and interest, over  $95\%$  of loans being processed by  
17 us at the present time are on a monthly repayment basis.  
18 The instalment payment amount whether it be on a  
19 monthly, quarterly or semi-annual basis, is derived  
20 from tables computed by the Financial Publishing Company  
21 of Boston." That Company has been referred to before  
22 today and is the recognized principle source of mathe-  
23 matical tables.

24 "Where the repayment is on a quarterly  
25 basis we use their publication No. 24 and in the case of  
26 monthly repayments we use publication No. 224."

27 If I may interject in view of some of  
28 the comments earlier -- occasionally we have a special  
29 loan which isn't susceptible to the tables such as  
30 where a debtor anticipates receiving, say, \$2,000 after







1 the loan has been running for a couple of years and  
2 wishes to make that as an interim payment. That will  
3 upset the normal actuarial tables in which case we will  
4 write to the Boston Company, who will give us a special  
5 table applicable to that loan and we keep a copy of  
6 that and give a copy to the borrower so that at all  
7 times he knows what his, how much interest is paid and  
8 what his monthly, what his debt is at the end of the  
9 current month.

10 "You will appreciate that as the interest  
11 is compounded semi-annually the tables contain a built-in  
12 adjustment to compensate for the fact that principal is  
13 being repaid either monthly or quarterly. As a result  
14 there is a very slight difference between the stated  
15 interest rate and the effective interest rate.

16 "You will find attached hereto as Schedule  
17 A the printed form of commitment letter used by The  
18 Royal Trust Company for its Montreal operation. You  
19 will note that the commitment letter provides a space  
20 for the insertion of the interest rate to be charged  
21 as well as the amount of each payment which is to be  
22 made. It also indicates the manner in which the interest  
23 is calculated. This information is also inserted in  
24 the form of commitment letter used by our company in  
25 Ontario.

26 EXTRA CHARGES: Borrowing charges paid by the borrower  
27 to our Company over and above interest consists of a  
28 holding fee and/or an evaluation fee. The holding fee  
29 is in the amount of 1% of the loan amount, payable at  
30 the time the loan commitment issues. This amount is





1 returned to the borrower at the time the loan is fully  
2 advanced. Our Montréal office no longer charges a hold-  
3 ing fee on conventional residential loans. In the case  
4 of Toronto it is still charged when the loan will not be  
5 advanced within two months of the date of our commit-  
6 ment. The holding fee is intended partly to dissuade an  
7 intended borrower from shopping our commitment but pri-  
8 marily it is intended to compensate the company for the  
9 expense involved in processing a loan, including the  
10 cost of our appraisal, in the event the borrower does  
11 not draw down the loan. Where a holding fee is charged  
12 the commitment letter sets forth the amount of the fee.

13 "The other fee charged by The Royal  
14 Trust Company to residential mortgage borrowers is a  
15 valuation fee. This fee covers the cost of our  
16 appraisal of the physical property. In Montreal this  
17 fee is calculated at the rate of \$2.00 per \$1,000. of  
18 loan". On \$10,000., obviously, this cost would be  
19 \$20.00. "This fee is not paid in advance but is paid  
20 by way of deduction from the amount of the loan at the  
21 time the loan is paid out. You will note from Schedule  
22 A that the Montreal commitment letter form provides a  
23 space for the insertion of the amount of the appraisal  
24 fee as well as the conditions attaching thereto.

25 "In Toronto the appraisal fee is calcu-  
26 lated on a sliding scale ranging from \$15.00 to \$40.00  
27 depending on the amount of the loan and the location of  
28 the property. Our Toronto office reports, however, that  
29 some companies do not charge a valuation fee and there-  
30 fore in a highly competitive market the lender is some-







1 times forced to reduce or eliminate entirely the  
2 valuation fee. Although the Toronto commitment letter  
3 does not set forth the amount of the valuation fee  
4 the borrower is informed of the amount before he signs  
5 the deed of loan. As you will appreciate, the policies  
6 of our branches are dictated by the policies of their  
7 local competitors and this accounts for the slight  
8 variation in policy between Montreal and Toronto.

9 "The other charges to the borrower  
10 consist of legal or notarial fees as the case may be,  
11 and in some cases surveyor's fees. As was expressed in  
12 the Association brief, we have no control over these  
13 charges and in the event that the borrower feels that he  
14 is being overcharged he would no doubt have recourse  
15 to the governing body of the appropriate association.

16 COLLATERAL LOANS

17 "All personal collateral loans made by  
18 our Company are on a demand basis. In special cases we  
19 might agree to a term loan not exceeding one year but  
20 term loans are the exception and not the rule."

21 If I may interject here -- demand means  
22 the borrower can repay any time he wishes just as much  
23 as we can call the loan at any time we wish, although,  
24 in practice, we don't call them.

25 "Each branch must be satisfied that the  
26 applicant has other resources to use in repaying the  
27 loan or in meeting margin calls as we prefer not to enter  
28 arrangements where our only recourse would be to  
29 liquidate the collateral. Where the loan is to be  
30





1 repaid over a period, a definite instalment schedule is  
2 set up. Collateral, to be acceptable, must be of a high  
3 quality. The type of collateral which we accept can be  
4 seen from the following margin requirements required by  
5 our branches:

6 Type of Collateral: On Canadian and U.S.A. Governments  
7 or Government guaranteed we want 3 points margin  
8 calculated on the market value not the par value.

9 On Provincial Governments or guaranteed, 5 points;

10 Municipal Governments, 10 points; Corporate Bonds and  
11 Debentures, 10 points; Stocks, 50% of market value;

12 Mixed Collateral, divided up as above. The above  
13 requirements, being minimum, are increased wherever  
14 this is considered advisable or necessary."

15 These aren't interest charges, you  
16 appreciate, these are simply marginal.

17 "The interest rate currently charged on  
18 collateral loans to individuals is 6% minimum. There  
19 is a spread of approximately 1% on collateral loans  
20 depending on the quality of the collateral. Interest is  
21 calculated quarterly on the outstanding balance.

22 "Although collateral loans do, in a  
23 sense, involve us in consumer credit, the borrower with  
24 sufficient collateral to meet our requirements is hardly  
25 in the same class as the over-extended consumer who is  
26 taken advantage of by unscrupulous lenders. We have  
27 provided this information, however, for whatever value  
28 it may be to you in the course of your studies and  
29 deliberations.

30 "As was mentioned at the outset, the





1 foregoing remarks were intended to amplify to some  
2 extent information provided in the brief presented by  
3 the Dominion Mortgage and Investment Association. The  
4 undersigned would be pleased to answer any questions  
5 which you may have arising from the foregoing or on  
6 any other aspect of our lending operations."

7 I don't know, sir, whether you would  
8 care to have me read out this letter which we send to  
9 our borrowers, this commitment letter which was  
10 discussed earlier this morning. It may be of interest  
11 to the Committee.

12 THE CHAIRMAN: Yes, you can go ahead.

13 MR. CLOSE: "Dear Sir: Your application  
14 for a first mortgage loan on the above property  
15 has been approved on the following basis. The mortgage  
16 will be drawn on our Deed of Loan form and will be  
17 prepared by the Notary shown below, provided we receive  
18 the accepted copy of this commitment from you. Then,  
19 the Loan, the Amount, the Term, the years and the  
20 Interest Rate calculated semi-annually.  
21 Subject to the following conditions: - Repayments and  
22 the Guarantor. And Fire Insurance has to be taken  
23 out. A Certificate of Location is duly prepared and  
24 a valuation fee amounting to -- and the amount is  
25 stipulated there -- will be deducted from the mortgage  
26 advance. You are to pay for the costs of the survey  
27 and all legal and notarial expenses incurred. Our Notary,  
28 for purposes of this transaction will be so and so, who  
29 will examine the title to the property, to be hypothe-  
30 cated, and prepare pertinent mortgage documents.







1 "This approval is based upon and subject  
2 to the accuracy of the information furnished by you in  
3 connection with your application. It is also subject  
4 to your executing the Deed of Loan.

5 "If the above conditions are satisfactory  
6 to you, please indicate your acceptance thereof by sign-  
7 ing and returning the enclosed copy to us within seven  
8 days and also forwarding to us all title deeds, surveys,  
9 fire insurance policies and latest tax receipts."

10 Now as a provision for the would-be  
11 borrower to accept it and send the form back to us.  
12 And when we receive this form duly signed we regard  
13 ourselves as committed. The borrower is, in fact,  
14 not committed to accept the money. If he chooses to  
15 walk away we would not pursue him. Are there any  
16 questions?

17 THE CHAIRMAN: I am sure some of the  
18 members of the Committee will have questions. Mr.  
19 Sedgwick?

20 MR. SEDGWICK: I have several questions,  
21 Mr. Close. You were here in this room when Mr. Fortin  
22 read his brief and answered questions and to avoid  
23 repitition, do you quarrel with any of the answers  
24 that he gave?

25 MR. CLOSE: Not at all, sir. I thought  
26 his answers were extremely pertinent.

27 MR. SEDGWICK: And the practice that  
28 he set out is consistent with the practice followed by  
29 the Royal Trust?

30 MR. CLOSE: Yes, sir, with minor





1 variances, depending on locality.

2 MR. SEDGWICK: Yes. By the way, the  
3 Royal Trust, my impression is, is a subsidiary of the  
4 Bank of Montreal or controlled by the Bank of Montreal?

5 MR. CLOSE: No, sir. We have no  
6 connection with the Bank of Montreal except that twelve  
7 of our Directors are also Directors of the Bank of  
8 Montreal.

9 MR. SEDGWICK: Oh, so it has some  
10 connection in that way. (Laughter)

11 MR. CLOSE: They are our Bank. I think  
12 we are their biggest customer.

13 MR. SEDGWICK: How many Directors are  
14 there?

15 MR. CLOSE: I think there are 42, sir.

16 MR. SEDGWICK: I see, and twelve of  
17 them are Bank of Montreal Directors.

18 MR. CLOSE: Yes. They are our bankers  
19 and are very close friends of ours.

20 MR. SEDGWICK: Looking at your brief  
21 on page 6, where you speak about collateral loans; they  
22 seem to be the kind of loans that a bank would make,  
23 are they not?

24 MR. CLOSE: Yes, sir.

25 MR. SEDGWICK: May I take it from your  
26 brief that you do not do any lending on the security  
27 of chattel mortgages?

28 MR. CLOSE: No, sir, only if other -- if  
29 we find ourselves winding up in that position, but  
30 we would not start out as a chattel mortgage, no.







1 MR. SEDGWICK: You don't handle (inaudible)

2 MR. CLOSE: Not at all, sir

3 MR. SEDGWICK: So, they are about the  
4 kind of loans that a bank would make, say, to a broker,  
5 is that correct?

6 MR. CLOSE: We do make broker's loans  
7 too.

8 MR. SEDGWICK: Yes, they look like  
9 broker's loans.

10 MR. CLOSE: And we feel ourselves  
11 competitive with the banks. We don't solicit loans  
12 openly. They are mostly to our own clients.

13 MR. SEDGWICK: I see. And then, as you  
14 say, the collateral will be of the nature as set out  
15 on page 6?

16 MR. CLOSE: That's right.

17 MR. SEDGWICK: You won't take automobiles  
18 or television sets or anything of that kind?

19 MR. CLOSE: No, sir.

20 MR. SEDGWICK: That's all I have to ask  
21 him, Mr. Chairman.

22 THE CHAIRMAN: Mr. Bukator?

23 MR. BUKATOR: No. I'm acquainted with  
24 this Company.

25 THE CHAIRMAN: Mr. MacDonald?

26 MR. MacDONALD: Mr. Chairman, there are  
27 two specific questions. On the one I asked earlier;  
28 On a five year mortgage, amortized over a 16 year  
29 period, you would readily supply to the mortgage broker  
30 the details of the amount of money outstanding at the





1 end of the five year period?

2 MR. CLOSE: Oh, yes. As far as that  
3 goes, he could ascertain at any time. If you call up  
4 and ask, "How much more do I owe you?", we would tell  
5 him. If it was in the middle of a quarter it would  
6 take a -- you know -- a day to calculate it, but we  
7 would certainly give him the information. We have  
8 with every loan a schedule of repayments showing the  
9 division as between the interest and the capital  
10 element in each blended payment, so automatically the  
11 balance is showing. And we do that for every loan.

12 MR. MacDONALD: On page 7 you say that  
13 on collateral loans your minimum interest rate is 6%.  
14 Have you got a calculation? What is the true interest  
15 rate?

16 MR. CLOSE: It's actually 6%. That is  
17 calculated on the daily balance.

18 MR. MacDONALD: Its paid quarterly and  
19 it's calculated on the unpaid balance?

20 MR. CLOSE: On the daily balance.

21 MR. MacDONALD: On the daily balance.

22 MR. CLOSE: You are talking collateral,  
23 this is not mortgages. But normally speaking somebody  
24 will borrow a round amount like \$12,000.00 or something,  
25 you see, which is secured by the appropriate amount of  
26 marginal security as collateral and then, if it's  
27 \$12,000.00 at 6%, that's \$7,200.00 a year, charged  
28 quarterly.

29 THE CHAIRMAN: Mr. White?

30 MR. WHITE: Do you take securities as





1 collateral?

2 MR. CLOSE: Any marketable security that  
3 is listed on any Stock Exchange.

4 MR. WHITE: What if an estate were left  
5 to a grandchild with the life interest to a child,  
6 would you lend money to a grandchild?

7 MR. CLOSE: Well, I'm not a -- I may  
8 use the wrong legal terms -- but only if he has an  
9 assignable interest. There are some estates which don't  
10 fall in until some other conditions have occurred, but  
11 if a beneficiary has an undivided, assignable interest,  
12 we will certainly make advances to him on that basis.  
13 Assuming the estate has marketable securities.

14 MR. IRWIN: Mr. Chairman, I want to ask  
15 a question. Please don't think I'm being critical  
16 in any way, but on page 7 in your statement of the  
17 calculation of interest it says the interest is  
18 calculated quarterly on the outstanding balance. To  
19 get down to cases that would mean that you would be  
20 charging .015 percent quarterly, is that right, on the  
21 daily balance?

22 MR. CLOSE: If the loan is 6% per annum  
23 it would be 1.50% each quarter.

24 MR. IRWIN: You are charging  $1\frac{1}{2}\%$  --

25 MR. CLOSE: Four times a year.

26 MR. IRWIN: Four times a year, yes. And  
27 it says it is calculated quarterly on the outstanding  
28 balance. The implication is that it is the outstanding  
29 balance at the end of the quarter?

30 MR. CLOSE: It would be done on the daily







1 balance.

2 MR. IRWIN: Daily balance. Then the  
3 calculation is made four times a year?

4 MR. CLOSE: That's right.

5 MR. IRWIN: Yes. Now, back to page 6,  
6 in the middle of the page, where the loan is to be  
7 repaid over a period, a definite instalment schedule is  
8 set up. Now this would perhaps include a monthly  
9 repayment schedule?

10 MR. CLOSE: Well, those are rare cases,  
11 because the great majority of our ~~personal~~ collateral  
12 loans are made, as I say, on a demand basis.

13 MR. IRWIN: If I came in to borrow \$100.00  
14 for 12 months, I wouldn't pay you anything but the  
15 interest until the 12 months was up, is that right?

16 MR. CLOSE: Well, you wouldn't have to --  
17 if you put collateral on and the loan was on demand,  
18 you could keep that \$100.00 indefinitely.

19 MR. IRWIN: That's fine. What I'm  
20 trying to find out is whether you make loans on a  
21 definite repaying schedule basis. The point I am  
22 trying to reach here is that we have had schedules  
23 presented to us, say, for a loan of one year payable  
24 in twelve monthly installments including interest and  
25 the stated rate has been 6%, but in fact if you work  
26 it out it comes to  $11\frac{1}{2}$  or 12%. Is this your case?

27 MR. CLOSE: No, sir, it isn't at all  
28 because we don't make unsecured loans, you see. And  
29 that type of loan is normally relatively small and our  
30 loans are normally relatively high. I suppose our





1 minimum loan is around \$5,000.00.

2 MR. IRWIN: You are not involved in  
3 any way with these types of loans which require a  
4 schedule of repayment and as a result of the schedule  
5 of repayment the effective rate of interest is sometimes  
6 substantially higher than the stated rate?

7 MR. CLOSE: No. The only time we get  
8 into -- where we have a definite repayment plan, is  
9 where the borrower, usually for his own personal  
10 convenience has said, "I want to pay up \$3,000.00 at  
11 the end of every year", or something.

12 MR. IRWIN: On page 7, the interest  
13 calculated quarterly, that's compounding it then, for  
14 twelve months?

15 MR. CLOSE: Yes, it does have a compounding  
16 effect.

17 MR. IRWIN: Thank you very much.

18 MR. BELANGER: Well, I -- (rest inaudible)  
19 If he can see that he can pay this off in a year or  
20 a year and a half, is he still committed to the two  
21 year payment ?

22 MR. CLOSE: No, sir. That's why we  
23 are trying to write all our loans on a demand basis  
24 which gives the borrower the right to pay any amount  
25 any time he wants.

26 MR. BELANGER: Another thing I want to  
27 ask is, when somebody approaches you for a loan, who,  
28 we will say here, has (rest inaudible)

29 MR. CLOSE: You are speaking now of a  
30 mortgage loan, are you?







1 MR. BELANGER: Yes.

2 MR. CLOSE: Well, with a mortgage loan  
3 our timing is usually dependent upon the Notary or  
4 lawyers who -- because, you see, the closing of the  
5 loan depends on when the notarial papers are ready.  
6 As soon as they are ready we advance the money and  
7 very often, in fact, if the person is well known to us  
8 we will advance the money if he needs it in advance of  
9 the processing of the papers where we rely on a person's  
10 verbal covenant to go through with the deal. But that's  
11 not expressed in any form of formal agreement of any  
12 kind. But our timing is dependent upon the agencies  
13 external to ourselves, namely in Quebec the Notary  
14 and in Ontario the lawyers.

15 THE CHAIRMAN: Mr. Hoffman? Mr. Hamilton?  
16 Mr. Noden? Mr. Reilly? No further questions?

17 Thanks very much, Mr. Close. We have  
18 heard two very excellent briefs and we appreciate very  
19 much the time and effort that has been put into their  
20 preparation for presentation here and we thank those  
21 gentlemen who we have already introduced for coming  
22 and making themselves available to the Committee this  
23 morning. Thank you very much, gentlemen. If there  
24 is no further business the meeting is adjourned  
25 until two o'clock.

26 ---MEETING ADJOURNED UNTIL 2:00 P.M.  
27  
28  
29  
30





---ON RESUMING AT 2:00 P.M., AUGUST 13, 1963.

1 THE CHAIRMAN: Well, gentlemen, since  
2 it's past two o'clock, we will commence the meeting.  
3 The other members will be along shortly. We have with  
4 us this afternoon Mr. Shifrin, of Shifrin and Solish,  
5 who is a lawyer and mortgage broker. I don't believe  
6 Mr. Shifrin has a brief to present to us but he no  
7 doubt will have some remarks to make and tell us about  
8 his experiences in his mortgage brokerage business.  
9 Mr. Shifrin, would you care to make a statement to the  
10 Committee about your operation, your business, your  
11 experience in it?

12 MR. SHIFRIN: Well, I should divide it  
13 into two parts, my experience prior to the Mortgage  
14 Brokers Act and subsequent to it. And then perhaps  
15 briefly -- the period after that, in the course of my  
16 experience has been very good from the point of view  
17 that the borrower is filling out the form and they  
18 receive the form under the Act. They know exactly how  
19 much money they are getting and how much is charged for  
20 disbursements and legal fees and, more important, what  
21 the amount is they are going to have to pay at the end  
22 of the five year period. This was always a bit devious  
23 prior to the Act because they had no idea. There is  
24 one suggestion that I would like to make, perhaps to im-  
25 prove it. They ask for an evaluation of the property.  
26 Even at the present time, especially when they are bonus  
27 mortgages, although I haven't placed any since the  
28 Act came into force, but from my experience prior to  
29 the Act coming into force, the agents or brokers,  
30





1 especially some of them who aren't as scrupulous as they  
2 might be, greatly overvalue the property for the purpose  
3 of getting a larger mortgage and getting a bigger  
4 percentage of commission. If a man had a property  
5 worth \$15,000, they would value it at \$25,000. If he  
6 came to a solicitor or mortgage man and said, "Here  
7 is a property worth \$25,000, can you loan \$20,000 on  
8 it, or \$17,000 or \$15,000?" Whereas, actually it  
9 probably shouldn't merit a mortgage higher than \$10,000.  
10 As a result the mortgagees take a terrific licking  
11 because the owner, realizing that he's got not a mortgage  
12 on it, he's actually got a purchase price on it all in  
13 cash, and sometimes even better. So the result was that  
14 they would sit in here for a month or two and then just  
15 drop the property altogether -- they would walk out  
16 completely. Some of them had the decency of sending in  
17 a key, other didn't even do that. Others would just  
18 remain on the property, not make any payments, would  
19 take eight or ten or twelve months to pay a month, not  
20 pay any taxes, not doing anything to the property with  
21 the result that the mortgagee would always take the  
22 losses, on the basis of the actual advance. All this  
23 could be avoided if a proper evaluation would be  
24 attached to these forms in which case, of course, the  
25 mortgagee wouldn't advance it and the owner wouldn't have  
26 the nerve to ask, or the agent or the broker for the  
27 agent wouldn't have the nerve to ask for that kind of a  
28 mortgage loan.

29 There are, of course, at all times, no  
30 matter what kind of a deal you have with people who aren't







1 too scrupulous, that are involved with real estate agents  
2 who will try and sell a property that's worth \$10,000  
3 and they sell it for twelve or thirteen and get a big  
4 mortgage and try and sell that at a discount. They go  
5 so far, my experience has been, that the down payment  
6 is supposed to be \$1,500 and it turns out that it's only  
7 \$500 and the owner or purchaser didn't even have  
8 that \$500 so the agent took him to a finance company  
9 where he borrowed three or four hundred dollars and  
10 the agent put up the balance and collects it at \$5.00  
11 a week. You know what happens to those mortgages.

12 On the basis of these, a proper evaluation  
13 would be a great benefit for both sides because I don't  
14 think the owner could properly do it, conscientiously,  
15 if he realized he was just being deluded by the  
16 unscrupulous real estate agent or mortgage agent, who  
17 overvalues it on purpose and he doesn't care. Insofar  
18 as any legitimate borrower is concerned I know that the  
19 form as set out is sufficient. I don't think it makes  
20 a great deal of difference, -- as I said, I'm not  
21 dealing in bonus mortgages -- but I don't think it  
22 makes any difference whether the mortgage calls for 7%  
23 with a \$500 bonus or whether it actually sets our 9% or  
24 8% or whatever without a bonus. So that a man knows  
25 what he is getting and he knows what he has to pay  
26 back, it doesn't make a great deal of difference. I  
27 think you will find that insofar as most people are  
28 concerned, if they have a property which has a proper  
29 evaluation and they want a proper amount they know  
30 where they can get the money. To begin with, if it's





1 not too big a loan, two or three thousand, they go to  
2 the bank, if it's legitimate. If not, second call would  
3 be to a trust company or insurance company. If they  
4 can't get it from them there is something wrong because  
5 they owe too much money or their property doesn't  
6 warrant any kind of mortgage or their own personal record  
7 doesn't warrant it. So at that stage of the game  
8 they get into the hands of some of these mortgage  
9 brokers who get loans or arrange loans on almost  
10 anything, particularly if they go out of town for it.  
11 They come to Toronto if a mortgage loan is required,  
12 or Sudbury or other cities, and vice versa so there  
13 wouldn't be a personal check on them. But as I said,  
14 that only applies to those who reach a stage where  
15 they are not legitimate borrowers. Other than that  
16 I don't think I have anything to say unless there are  
17 some questions.

18 MR. SEDGWICK: I was interested, Mr.  
19 Shifrin, in your statement that the valuations given  
20 by the mortgage broker who is going to arrange the  
21 loan are inflated. Doesn't the lender ordinarily  
22 make his own inquiries as to value?

23 MR. SHIFRIN: Well, it's very difficult,  
24 when you are dealing with out-of-town mortgages. You  
25 don't always go to visit them. You have pictures of  
26 the property and valuations from the so-called evaluator  
27 who, unfortunately, the valuation comes from a local  
28 man, if it's a property in Sudbury, say, to get a  
29 real estate man to give a valuation of the property.  
30 If he's quite well known -- most of the valuations ask







1 you how much you want to value it at.

2 MR. SEDGWICK: How would matters be  
3 improved if a valuation were attached to the document?  
4 It would still be subject to the same defects, wouldn't  
5 it?

6 MR. SHIFRIN: Well, yes, except that  
7 you could scrutinize the valuator a little more. Right  
8 now, in most cases, they don't give you any valuation  
9 other than they say what the value is. They don't  
10 attach a valuation.

11 MR. SEDGWICK: Couldn't the lender  
12 always insist on that?

13 MR. SHIFRIN: No.

14 MR. SEDGWICK: Why not? Couldn't he  
15 send it back and say please attach a valuation from  
16 some reputable valuator and without this won't consider  
17 the loan?

18 MR. SHIFRIN: I think you will find  
19 in such cases the mortgage broker wouldn't come back  
20 to you. He would find somebody else.

21 MR. SEDGWICK: All right, wouldn't that be the  
22 answer? Isn't the remedy in the hands of the lenders?

23 MR. SHIFRIN: It is to that extent. But  
24 speaking for those who are in the mortgage business  
25 exclusively, there wouldn't be too much business  
26 available. If it's a large amount concerned, they  
27 have their own evaluator -- but the private investor  
28 hasn't got an evaluator.

29 MR. SEDGWICK: We've been told in the  
30 trust companies, for instance, they make a valuation





1 and charge a valuation fee. And we have also been  
2 told that many people who borrow on second mortgages  
3 are charged a valuation fee and the lender pays that  
4 money to the mortgage broker who evaluates it. Isn't  
5 that an answer?

6 MR. SHIFRIN: As I said, institutions  
7 have their own valuator but private investors don't.

8 MR. SEDGWICK: But shouldn't they? They  
9 are lending their money.

10 MR. SHIFRIN: A private individual  
11 only has money up for one mortgage or two mortgages  
12 won't get an evaluator.

13 MR. SEDGWICK: He probably could have  
14 written to a reputable real estate man in Sudbury  
15 and said, "I've been asked to lend \$2,000 on this  
16 house with a \$6,000 first, will you give me a valuation?"  
17 Wouldn't he get one?

18 MR. SHIFRIN: I imagine he could, but  
19 there could be a lot of things done which aren't done.  
20 As I say, if the valuation was part of the form --

21 MR. SEDGWICK: There would still only  
22 be the borrower's valuation. The borrower would  
23 value it on the form.

24 MR. SHIFRIN: You mean they would just  
25 put down their value in amounts?

26 MR. SEDGWICK: Yes.

27 MR. SHIFRIN: The valuation I am suggest-  
28 ing is that a valuation, an opinion valuation, be  
29 attached.

30 MR. SEDGWICK: Secured by the borrower?





1 MR. SHIFRIN: Secured by the borrower.

2 At this stage it would have to be. Ultimately it  
3 would be up to the lender whether he will accept that  
4 or not.

5 MR. SEDGWICK: It is now. You can  
6 always say, "I want the valuation and I propose to  
7 get one before I will lend you your money."

8 MR. SHIFRIN: You could do it, certainly.  
9 In many cases it's not done with the result that  
10 both the mortgagor and the mortgagee are --

11 MR. SEDGWICK: Have you any specifications  
12 where that goes on, where the valuation is raised to  
13 that extent?

14 MR. SHIFRIN: I had one where I placed  
15 a loan out of town near Ottawa with an evaluation  
16 from an Ottawa broker of \$30,000 and you couldn't  
17 get \$12,000 for it. He was in arrears almost  
18 immediately. When I got in touch with the valuator  
19 and ask him, "How can you value this -- get me a  
20 purchaser for \$30,000 -- get me a purchaser for \$15,000".  
21 He said, "I didn't give you the valuation, it was  
22 addressed to the owner and therefore I have no further --"

23 MR. SEDGWICK: That's exactly what I  
24 said, the lender should get the valuation so that it's  
25 privileged between him and the valuator, whoever the  
26 valuator may be.

27 MR. SHIFRIN: In the final analysis, you  
28 are quite right, that would be the proper way of doing  
29 it. But I think to start with if we had it the other  
30 way around, even if it wasn't followed up, it would save







1 a lot of trouble.

2 MR. SEDGWICK: Mr. Shifrin, how would  
3 it help? Take your own example. Let's suppose that the  
4 borrower had secured a valuation -- the one that you  
5 mentioned -- and sent it in. Your client would have  
6 been in as bad a position as he was. He wouldn't have  
7 been helped by the \$30,000 valuation, would he?

8 MR. SHIFRIN: As I said, in that case  
9 it's up to the -- I wasn't complaining because we  
10 should have got, my client should have gotten his own  
11 valuation -- shouldn't have depended upon this one.  
12 But you could use that as a guide to work --

13 MR. SEDGWICK: Got it as a guide and  
14 didn't use it.

15 MR. SHIFRIN: And didn't use it.

16 MR. SEDGWICK: Do you not do any bonus  
17 mortgage business?

18 MR. SHIFRIN: Not the last three and a  
19 half years.

20 MR. SEDGWICK: Not since the Act came out.  
21 Then all the second mortgages that you arrange -- you  
22 arrange them, I take it --

23 MR. SHIFRIN: As a matter of fact, during  
24 the last three years, in view of all the trouble with  
25 all these mortgage kick-backs and the servicing that  
26 takes so much time involved, so much pressure, that I  
27 have for the last three years concentrated only on large  
28 mortgages of \$50,000 and over which are commercial  
29 properties and industrial, not on home owners' properties.  
30 They may be first or second, but most of them are first.





1 They are only large mortgages.

2 MR. SEDGWICK: You no longer do business,  
3 then, on residential property? So for three and a  
4 half years you have been pretty well out of touch  
5 with that aspect of the business?

6 MR. SHIFRIN: All I've got now are the  
7 people left over from three or four years ago.

8 MR. SEDGWICK: Has your loss ratio been  
9 great on those mortgages, your ultimate loss ratio?

10 MR. SHIFRIN: It has only for one reason.  
11 During a short period my clients were buying mortgages  
12 from one or two brokers who, I'm afraid, were a little  
13 unscrupulous and overvalued the properties to a great  
14 extent and raised -- the mortgages were too high and  
15 as a result from that group there was a rather high  
16 loss as far as ratio is concerned. But ordinarily there  
17 isn't, no. You can always come across some deadbeat,  
18 and about three years ago when properties in Toronto  
19 became inflated to a great extent and the properties  
20 were worth -- on a \$15,000 property you couldn't get  
21 twelve or eleven for it -- and as a result the second  
22 mortgages were too high and the second mortgagee would  
23 have to take a licking. But that's only the normal  
24 inflation as far as valuation of real estate values  
25 are concerned, the locality. It has nothing to do with  
26 the borrower or lender.

27 MR. SEDGWICK: Do you, as a mortgage  
28 broker, charge a commission. That is do you charge  
29 a commission to the borrower for arranging a mortgage?

30 MR. SHIFRIN: To the borrower, yes.







1 MR. SEDGWICK: What commission do you  
2 charge?

3 MR. SHIFRIN: That all depends on the  
4 size of the mortgage. We don't go by rates. If it's  
5 a \$100,000 mortgage, the commission would amount to  
6 \$1,000.

7 MR. SEDGWICK: Only 1%?

8 MR. SHIFRIN: Yes.

9 MR. SEDGWICK: That would be a first  
10 mortgage?

11 MR. SHIFRIN: Yes.

12 MR. SEDGWICK: And do your rates vary--  
13 by that I mean, if you arrange a second mortgage do  
14 you charge more percentagewise?

15 MR. SHIFRIN: I don't think so. As a  
16 matter of fact I don't arrange any seconds. When  
17 you raise these large mortgages they are large enough  
18 so that no second is required. To put a second on  
19 top of that is pretty hard.

20 MR. SEDGWICK: There isn't any equity  
21 for a second?

22 MR. SHIFRIN: That's right.

23 MR. SEDGWICK: So you raise -- I believe  
24 the trust companies will only lend them up to two-thirds  
25 of the declared value. You are able to arrange  
26 mortgages up to about what percent?

27 MR. SHIFRIN: Oh, I'd say 75%.

28 MR. SEDGWICK: About 75%. Those would  
29 be mostly large mortgages, \$50,000 and over?

30 MR. SHIFRIN: \$50,000 and over.





1 MR. SEDGWICK: Almost entirely commercial  
2 or apartment then?

3 MR. SHIFRIN: That's right. Or vacant  
4 land waiting for development.

5 MR. SEDGWICK: You would lend on that?  
6 And the commission you charge as a mortgage broker  
7 varies from 1% to what?

8 MR. SHIFRIN: That I charge, or that  
9 others charge?

10 MR. SEDGWICK: That you charge.

11 MR. SHIFRIN: It may be as high as 3%.

12 MR. SEDGWICK: As high as 3%. Dependent  
13 on the difficulty of placing the mortgage?

14 MR. SHIFRIN: Yes.

15 MR. SEDGWICK: I see. And that is  
16 invariably paid by the borrower?

17 MR. SHIFRIN: By the borrower.

18 MR. SEDGWICK: By the borrower, yes.  
19 On say a residential mortgage of about \$5,000, do you  
20 arrange any mortgages of that kind?

21 MR. SHIFRIN: Not at all. I don't  
22 arrange those at all.

23 MR. SEDGWICK: You don't. Then, on  
24 say a \$50,000 mortgage, what would be the total cost  
25 to the borrower? I'm thinking of legal fees, the  
26 commission to ~~the mortgage~~ broker, the valuation fee --  
27 I assume one --

28 MR. SHIFRIN: Yes. Well, there also it  
29 depends on the security. If it's something that can be  
30 raised easily -- I can call the first client who says,





1 "I'll take it", it's that much easier. If I have to  
2 go to ten or twelve before I can get somebody who will  
3 take it, then my fee would be higher. I would say  
4 between the commission and legal fees and disbursements  
5 it would be about \$1,000.

6 MR. SEDGWICK: On what figure?

7 MR. SHIFRIN: On \$50,000, you asked.

8 MR. SEDGWICK: About 2% in all?

9 MR. SHIFRIN: About that.

10 MR. SEDGWICK: And that would include  
11 your legal fees, is that right?

12 MR. SHIFRIN: Yes.

13 MR. SEDGWICK: And evaluation fee?

14 MR. SHIFRIN: Yes.

15 MR. SEDGWICK: I suppose it would be  
16 safe to assume that any loan in excess of ten or  
17 twenty thousand, the lender would get his own valuation?

18 MR. SHIFRIN: That's right.

19 MR. SEDGWICK: Yes.

20 MR. SHIFRIN: Usually about \$25,000 and  
21 over.

22 MR. SEDGWICK: Yes. You wouldn't rely  
23 on the valuation of a stranger. You would get your  
24 own?

25 MR. SHIFRIN: It generally doesn't  
26 come up in the five, six or ~~ten~~ thousand dollar loan.

27 MR. SEDGWICK: But you don't do any of  
28 those now.

29 MR. SHIFRIN: As a matter of fact most  
30 of the grief that comes up/<sup>is</sup>with the smaller mortgages







1 because the bigger mortgages are dealing with big  
2 enterprises, big companies, and we know they have value  
3 unless something most unusual happens.

4 MR. SEDGWICK: Really you don't deal  
5 with the ignorant public, if I can so describe them?

6 MR. SHIFRIN: Not for the last three  
7 years.

8 MR. SEDGWICK: No. You deal with the  
9 people who know the markets, who know their needs and  
10 who know what, in their circumstances, money is worth  
11 to them. What interest rates do you get, within what  
12 range, on first mortgages?

13 MR. SHIFRIN: From 8 to 10%.

14 MR. SEDGWICK: 8 to 10%.

15 MR. SHIFRIN: If it warrants seven  
16 they can get it from a trust company.

17 MR. SEDGWICK: That's what I had in  
18 mind. They wouldn't be likely to pay a commission --

19 MR. SHIFRIN: At least 1% more, yes,  
20 for mortgages which they can't get from an ordinary  
21 institution.

22 MR. SEDGWICK: Of course, the ordinary  
23 institutions, they do not pay any commission.

24 MR. SHIFRIN: But other institutions pay  
25 a finder's fee.

26 MR. SEDGWICK: Yes. That is, the lender  
27 pays it? Whereas in your case the borrower pays it.  
28 So that the borrower dealing through you would pay, in  
29 all probability, a higher rate of interest and would  
30 also pay a commission to you as a mortgage broker?





1 MR. SHIFRIN: Yes, because he knows he  
2 can't get a loan or can't get as much money --

3 MR. SEDGWICK: I think that's all my  
4 questions.

5 MR. MacDONALD: In connection with that,  
6 there is a finder's fee also, or did I get that wrong?

7 MR. SHIFRIN: What was the question?

8 MR. ~~SEDGWICK~~ ~~MACDONALD~~: With the costs that you  
9 outlined, is there also a finder's fee on top of that?

10 MR. SHIFRIN: Finder's fee to the  
11 lender, no.

12 MR. SEDGWICK: If I take you wrong,  
13 Mr. Shifrin, correct me. I thought as to that you  
14 charge, as a mortgage broker, you charge a fee  
15 varying from one to three percent to the borrower --

16 MR. SHIFRIN: For commission, but not  
17 a finder's fee to the lender at the same time.

18 MR. SEDGWICK: Oh, no, no, you don't  
19 charge them in addition, no.

20 MR. MacDONALD: Mr. Chairman, there are  
21 a couple of questions. I was curious to know why --  
22 or let me put it this way -- when the Act came in it  
23 doesn't preclude bonuses. They are not illegal under  
24 the Act, it's just that they have to be revealed in  
25 the form. I was curious to know why you went out of  
26 that field completely after the Act.

27 MR. SHIFRIN: Well, in the first place  
28 (inaudible) -- but generally speaking, as far as  
29 bonus mortgages are concerned, the difficulty is to  
30 figure out the actual rate and how much they would have







1 to pay back at the end of the time if it's a bonus  
2 instead of a straight interest rate.

3 MR. MacDONALD: Assuming it's all paid  
4 off and there is no balloon payment at the end.

5 MR. SHIFRIN: The form says the amount  
6 of loan, the amount of expenses, commissions and so  
7 on, how much was he advanced, how much did he have to  
8 pay back at the end of five years after meeting all  
9 the payments. Well, put in the form of a bonus it  
10 is very difficult to figure out on that basis. It's  
11 much easier to put it on the straight  $7\frac{1}{2}$ , 8 or 10%.  
12 Then the interest tables will show you, the amortization  
13 tables will show you at the end of five years how  
14 much is still left over.

15 MR. MacDONALD: But it was just more  
16 or less coincidence that you went out of this field  
17 about the time the Act came in?

18 MR. SHIFRIN: As a matter of fact  
19 during my -- say in the last three years I don't think  
20 I have arranged 15 mortgages solely because when the  
21 Act came into force the Department said -- I've forgotten  
22 the Section -- if you place more than \$30,000 worth  
23 of mortgages in a year you have to be registered (rest  
24 inaudible)

25 MR. MacDONALD: The second question, Mr.  
26 Chairman, is to bring back the discussion Mr. Sedgwick  
27 had with you on getting an evaluation. If the normal  
28 evaluation is the evaluation for the borrower, if you  
29 are acting as a mortgage broker and therefore you are  
30 performing a service for the lender, would I not be





1 right in assuming there is an obligation on you to  
2 protect the lender for whom you are acting to make  
3 certain that the evaluation wasn't inflated?

4 MR. SHIFRIN: Well, it depends upon  
5 the lender whether he asks for an evaluation or is  
6 interested in an evaluation. See, most of these cases,  
7 say a mortgage broker -- actually my applications  
8 come from a mortgage broker. The mortgage broker will  
9 call up the office and say, "Can you arrange a  
10 mortgage on such and such a property?", or send me a  
11 letter or something. If I think it is interesting enough  
12 I send it out to a client who is supposed to go out  
13 and see the property, if it's in Toronto or the  
14 neighbourhood. So my arrangement isn't with the owner  
15 at all, I'm just the middle man, so to speak.

16 MR. MacDONALD: Well, what I am getting  
17 at is, Mr. Sedgwick was driving rather relentlessly at  
18 the point that the lender should get an evaluation to  
19 check with the borrower's evaluation --

20 MR. SHIFRIN: In order to protect himself  
21 he should.

22 MR. MacDONALD: Right. But it would seem  
23 to me that either the mortgage broker and/or you, who  
24 was approached by the mortgage broker to place the  
25 mortgage, would do that as almost a legitimate service  
26 to the lender whose money are you placing.

27 MR. SHIFRIN: Well, it's all right on  
28 larger loans but on smaller loans where the fees and  
29 disbursements are restricted, it's not that easy. To  
30 get an evaluation, it runs around \$50.00 for that. But





1 I agree with you that the lender should get one.

2 MR. MacDONALD: Well, that really isn't  
3 my point. My point is that the prudent lender, if he  
4 went to a mortgage broker -- perhaps I'm wrong, perhaps  
5 it's my inexperience in this field -- I would think  
6 that the mortgage broker, because he was acting on my  
7 behalf, I, in effect, was his client, would protect my  
8 interests to the point of not accepting an inflated  
9 appraisal.

10 MR. SHIFRIN: It's a question of who the  
11 mortgage broker is acting for, the lender or the  
12 borrower.

13 MR. MacDONALD: Well, we dealt with that--

14 MR. SEDGWICK: You are acting from self-  
15 interest.

16 MR. SHIFRIN: That's right.

17 MR. BELANGER: I was going to ask -- you  
18 are a lawyer at the same time, Mr. Shifrin, are you?

19 MR. SHIFRIN: I'm a lawyer primarily.

20 MR. BELANGER: You're not a mortgage  
21 broker?

22 MR. SHIFRIN: No.

23 MR. BELANGER: In other words, all you do  
24 is hand these cases to the mortgage broker?

25 MR. SHIFRIN: If a mortgage broker sends  
26 in an application, and if I am interested, I process it.

27 MR. BELANGER: You are not registered as  
28 a mortgage broker?

29 MR. SHIFRIN: As I said, I'm registered  
30 because the Act calls for me to be registered, if you







1 put through a certain number of --

2 MR. BELANGER: But you are registered as  
3 a mortgage broker?

4 MR. SHIFRIN: That's right.

5 MR. BELANGER: Well then, what percentage  
6 of your business would you say is done handling mortgages?

7 MR. SHIFRIN: About 5%.

8 MR. BELANGER: Just about 5%. And I'm  
9 still interested in this thing -- your saying about a  
10 proper evaluation. I understand that you are getting  
11 somebody to handle the mortgages for some people and  
12 then -- how do you judge whether the evaluation is wrong?  
13 How can you say it is wrong? Do you check it or  
14 something? Do you get somebody else to go out and  
15 evaluate the property afterwards?

16 MR. SHIFRIN: As I said, the small loans  
17 I don't think they are valued at all except the  
18 broker's or the owner's evaluation. For large loans,  
19 of course, you send your own evaluator out there and if  
20 the client himself wants to value, that's up to him.

21 MR. BELANGER: You say your commission  
22 and the charge for legal fees is about 2%?

23 MR. SHIFRIN: That's right.

24 MR. BELANGER: What would you say that  
25 all this amounts up to -- what percentage of the amount  
26 that they want to borrow?

27 MR. SHIFRIN: That depends on the amount  
28 involved. The ordinary small mortgage of, say, \$10,000,  
29 the tariff just calls for 1 $\frac{1}{4}$ % plus disbursements.

30 MR. BELANGER: Well, I'm talking about --





1 say it's for a \$50,000 mortgage --

2 MR. SHIFRIN: Well, the first \$50,000,  
3 as I told Mr. Sedgwick, between the commission and  
4 legal fees and disbursements, it may run about \$1,000.

5 THE CHAIRMAN: Any questions, Mr.  
6 Hoffman?

7 MR. HOFFMAN: I was wondering, do you have  
8 a limit on these percentages that you work within, that  
9 is, the percentages charged for legal fees and  
10 services?

11 MR. SHIFRIN: That is determined purely  
12 by the amount of the loan. By the amount of the loan  
13 and the value of the property and the work involved --  
14 if it involves one property or four properties that  
15 have to be searched, titles have to be searched and so  
16 on, and the availability of the funds.

17 MR. HOFFMAN: So there is no actual --

18 MR. SHIFRIN: No. I would say that it  
19 would fluctuate between one and three percent.

20 MR. NODEN: What has your observation  
21 been as to the losses on second mortgages? Have you  
22 any information on that?

23 MR. SHIFRIN: Well, as I said, on large  
24 loans there are very few losses because you are  
25 dealing with large firms. On the small ones there  
26 have been losses due to a decrease in value of the  
27 property and due to overvaluation of the property as  
28 far as the mortgage is concerned. But the percentage  
29 I don't know.

30 MR. NODEN: Are they significant, these







1 losses?

2 MR. SHIFRIN: I think mortgages placed  
3 during a certain period -- I think it is about three  
4 years ago, for instance in Toronto the value of  
5 property in certain areas went down a great deal so  
6 that those mortgages in that area the mortgagees  
7 suffered considerable losses, but generally speaking  
8 that isn't so.

9 MR. NODEN: Thank you.

10 THE CHAIRMAN: Mr. Reilly?

11 MR. REILLY: Mr. Chairman, I was  
12 interested in the illustration that he told of lending  
13 some money in a case down east, about \$30,000 and later  
14 found out it was worth about \$12,000. This wasn't  
15 your own money that was put up?

16 MR. SHIFRIN: Oh, no.

17 MR. REILLY: It was the client's money.  
18 In a case like that, if I were to lend you \$30,000  
19 and the value of the property was only \$12,000, I'm  
20 the loser between 12 and 30? Do I have any recourse,  
21 could I sue you for the \$18,000 differential?

22 MR. SHIFRIN: You would just have to  
23 see your lawyer about that? (Laughter)

24 MR. MacDONALD: Well, this brings us  
25 back to my question of the obligation of the broker  
26 in the picture. I must say I am getting more and more  
27 mystified as to what exactly is the role of the broker?

28 MR. SHIFRIN: I don't know.

29 MR. REILLY: Neither do I. In this  
30 particular case was anything -- did anything develop?





1 Did he sue you, for instance? Or did he attempt to  
2 sue you?

3 MR. SHIFRIN: No.

4 MR. REILLY: No attempt was --

5 MR. SHIFRIN: I wasn't the broker --  
6 there was a broker involved. I was the solicitor.

7 MR. REILLY: Do you know whether there  
8 was any attempt to sue the broker?

9 MR. SHIFRIN: No.

10 MR. REILLY: None. So he just took  
11 his loss. This was part of -- he was getting a fair  
12 return under the circumstances, he took the loss,  
13 \$18,000?

14 MR. SHIFRIN: Yes.

15 MR. REILLY: It sounds fishy to me. I  
16 can't understand that.

17 THE CHAIRMAN: Mr. Irwin?

18 MR. IRWIN: I was just going to ask  
19 one question, but you beat me. Correct me if I'm  
20 wrong, but I took the impression that you said something  
21 to the effect the borrowers who get themselves into  
22 these awkward and perhaps impossible situations could  
23 have approached a bank or a trust company or some  
24 normal lending institution and that they find themselves  
25 in this position because they haven't got a very good  
26 proposition to start with. Do I more or less interpret  
27 what you said in that regard along these lines?

28 MR. SHIFRIN: Yes. I said if a borrower  
29 needs \$1,000, 2,000, \$1,500, he would first go to the  
30 bank if he's got legitimate security or if his credit





1 is good the bank will give him the money. His next  
2 attempt would be to go to a trust company or insurance  
3 company to get the money. If he can't get it from  
4 legitimate sources, he has to go to private funds and  
5 pay a little more.

6 MR. IRWIN: That could be true of, let's  
7 say a knowledgeable citizen. But it strikes me from  
8 many of these situations that have been described to  
9 us that the persons involved didn't either know that  
10 they could or didn't attempt to or they had been  
11 perhaps under the impression that none of these normal  
12 institutions would listen to them. Does that -- I am  
13 merely asking for a comment -- I am not relating this  
14 to your business? I wonder if it is a question of  
15 public education, people don't know the routes through  
16 the morass.

17 MR. SHIFRIN: Oh, I think they do. I  
18 think I was just pointing out the fact that when they  
19 get to the stage of paying high rates of interest and  
20 so on is when they have to go to private funds because  
21 the others aren't available to them due to lack of  
22 security.

23 THE CHAIRMAN: Any further questions,  
24 gentlemen?

25 MR. BELANGER: Well, just that -- have  
26 you any recommendations to make to this Committee other  
27 than this recommendation that the evaluation should be  
28 checked before being stamped, is that it?

29 MR. SHIFRIN: That's about the only one.

30 MR. BELANGER: And be attached to the form.







1 MR. SHIFRIN: Yes.

2 MR. REILLY: Mr. Chairman, dealing with  
3 the thousand dollars or 2% of the \$50,000 deal, I  
4 understood you to say that you charge your regular  
5 customary tariff fee of 1 $\frac{1}{4}$ % for legal work, Mr. Shifrin?  
6 All of them -- your disbursements, your valuation and  
7 your legal fees in one group, amounting to 2% of  
8 \$50,000, approximately \$1,000, you told us?

9 MR. SHIFRIN: I would say an average  
10 of that, yes.

11 MR. BUKATOR: Mr. Chairman, if I may  
12 ask a question, pertaining to your Company, I was  
13 interested to hear that you will loan money, from  
14 \$50,000 and up. If I were to bring a client to you  
15 from, let's say the city of Niagara Falls, to borrow  
16 \$100,000 for a motel, which is a little bit risky --

17 MR. SHIFRIN: It's not good security  
18 these days. They are a drug on the market.

19 MR. BUKATOR: It all depends on what  
20 particular area you are in, huh? I'll meet with you  
21 gentlemen later. (Laughter). They are considerable  
22 risk in some areas, but if I were to find a proposition  
23 for you that made sense, just what would be the  
24 procedure? I'm speaking to you now as a real estate  
25 broker? Just what steps would I take to acquire this  
26 money for a client? What is my first approach? I  
27 come to you and say I have this proposition showing a  
28 picture of the site, showing you the value of the land,  
29 showing you what is going to be built on there and if  
30 you find this appeals to you then you would find a client





1 for me, I imagine.

2 MR. SHIFRIN: Right.

3 MR. BUKATOR: Then if my client was  
4 accepted by the lender, just what rate of interest  
5 would he have to pay for this could-be risky business,  
6 as far as your client is concerned?

7 MR. SHIFRIN: Well, it's quite a small  
8 application. It depends upon first the percentage  
9 of the loan in relation to the value. I placed a  
10 loan of \$65,000 on the motel on Highway #7 near  
11 Brampton -- that was \$65,000 at 9%.

12 MR. BUKATOR: 9%. And the broker  
13 in this case would get 1%?

14 MR. SHIFRIN: I don't know.

15 MR. BUKATOR: You don't know. But then  
16 is there a higher rate of interest in areas that you  
17 are acquainted with on a similar loan?

18 MR. SHIFRIN: In motels? I don't know,  
19 I don't --

20 MR. BUKATOR: Well, any business that  
21 you are working in?

22 MR. SHIFRIN: First mortgages run in  
23 the area from 8 to 10%.

24 MR. BUKATOR: 8 to 10, that's about it.  
25 This particular case where the man was sold the idea  
26 that he should invest \$30,000 in a proposition in  
27 Ottawa, was it?

28 MR. SHIFRIN: A small town near Ottawa.

29 MR. BUKATOR: A town near Ottawa. Just  
30 what was the procedure there? Someone came to you with







1 the proposition. You found a lender that was ready  
2 and willing, apparently. How did he come by that  
3 decision? Did he not investigate on his own at all?

4 MR. SHIFRIN: He might have, but he  
5 obviously didn't do too much investigating.

6 MR. BUKATOR: This man was brought to  
7 you by a broker also? The proposition was brought  
8 to you by a broker?

9 MR. SHIFRIN: I didn't know the  
10 borrower.

11 MR. BUKATOR: You didn't know the  
12 borrower at all?

13 MR. SHIFRIN: That's right.

14 MR. BUKATOR: I find it rather  
15 difficult to see how a man could invest that kind of  
16 money without accepting somebody's word for it that  
17 it was a good investment, or looking at the property  
18 himself. If he would have looked at the property then  
19 he would not have put his money into it.

20 MR. SHIFRIN: Well, this property was  
21 a store, a general store plus lockers, frozen lockers  
22 and other things. The business went flat before he  
23 knew it and he closed up the store and everything else  
24 went flat too and he became ill and he had nothing but  
25 the six room house or whatever it was that was attached  
26 to the store.

27 MR. BUKATOR: This wasn't the Johnson  
28 property in Peterborough, was it?

29 MR. SHIFRIN: No.

30 MR. BUKATOR: It sounds like a property





1 that had been bypassed by (inaudible) (Laughter).  
2 To pursue my question further. At the time it might  
3 have appeared to be quite a good investment for the  
4 man because it was a going concern?

5 MR. SHIFRIN: It sounded all right.

6 MR. BUKATOR: And then the man was sick,  
7 the borrower, and had to close up and these are  
8 the circumstances that --

9 MR. SHIFRIN: No, he closed up because  
10 business was bad. It was the result of that he got  
11 sick.

12 MR. BUKATOR: At least it makes it  
13 sound a little more interesting at the moment than  
14 it was before. (Laughter). I am looking for people  
15 who will take my word for investments of that type  
16 without looking at the property. I find in most  
17 cases, from my experience, even though it's a thousand  
18 or two, they want to look, take a good look. But  
19 someone persuaded these people to invest \$30,000 and --  
20 by the way, did the man come back to you and want to do  
21 business again through your office as a lender. (Laugh-  
22 ter).

23 MR. SHIFRIN: The answer is no.

24 THE CHAIRMAN: Mr. Letherby?

25 MR. LETHERBY: Mr. Chairman, as a further  
26 matter of interest probably to this Committee, on the  
27 nine o'clock CBC News this morning -- I don't know  
28 whether anyone present heard it -- but a reference  
29 was made to the Nova Scotia Royal Commission into  
30 the cost of borrowing. The Commission sitting in





1 Halifax heard a claim from a Dartmouth couple that  
2 they had arranged to borrow \$1,500.00 from the Town  
3 and Country Real Estate Company. When they received  
4 the statement from the firm they found that they had,  
5 in fact, borrowed close to \$3,000.00. The couple's  
6 lawyer told the Commission that according to his  
7 records they were paying 41.2% interest. The couple  
8 was billed for \$1,500.00 of the loan, a bonus of  
9 \$1,200.00, \$150.00 of commission on \$50.00 in legal  
10 fees. Now, my point is that the cost of borrowing  
11 is Canadian-wide and probably is not confined to just  
12 Ontario alone. That was the nine o'clock CBC News.

13 MR. SEDGWICK: It said in the Globe and  
14 Mail on the Chairman of that Commission and the Counsel  
15 for it -- they wrote me and asked if they could see  
16 me if they came, and I said I would be delighted. So  
17 we may have a little more information as to what is  
18 happening in the Maritimes when we have had a chance  
19 to talk to them.

20 THE CHAIRMAN: Do you have any further  
21 questions? Thank you very much, Mr. Shifrin, for  
22 talking with us today.

23 MR. MacDONALD: Mr. Chairman, for  
24 purposes of the record before we get away from it. There  
25 are two points that have arisen already today that I  
26 think the Committee should put on the agenda -- exactly  
27 how we come to grips with it I don't pretend to know  
28 the answer. One was this morning, that question of the  
29 Interest Act and the obligations it involves --

30 MR. SEDGWICK: I think the Interest Act







1 only applies to cases where there is a blending of  
2 principal and interest and then you must take the  
3 effective rate of interest -- I don't think it applies  
4 to the question of a bonus at all. It only acts on  
5 the stated amount of the mortgage whether all of it  
6 was advanced or not.

7 MR. MacDONALD: Well, that could be  
8 true. That question, and the second one of the  
9 testimony we have just heard -- I emphasize that  
10 once again it is not a new point -- I'd be very  
11 curious to having a clearer picture of what exactly  
12 is the function and the role and the obligations of  
13 a mortgage broker. Because I've been intrigued at  
14 the conflicting, or rather the testimony from rather  
15 opposite sources to this Commission. People whom I  
16 would consider to be real operators and people whom  
17 I think were maybe the most respectable and careful  
18 in the field. And both would express rather jaundiced  
19 views with regard to the Mortgage Brokers' Association.  
20 I think part of this stems from some confusion and  
21 vagueness as to what exactly is the function of a  
22 mortgage broker. In this one case --

23 MR. REILLY: Mr. MacDonald, don't you  
24 think that it's quite obvious that the function of a  
25 mortgage broker is to bring the buyer and seller  
26 together? But this illustration points out that  
27 sometimes the lender gets fleeced as well as the  
28 borrower.

29 MR. MacDONALD: Well, it just -- who  
30 owes the client of the mortgage broker? Now somebody





1     threw in the suggestion -- we were discussing it a  
2     moment ago -- he is really in business for himself.  
3     Nobody is his client. Now, this may be true, but if  
4     it is I think there are an awful lot of lenders who  
5     are not aware of this fact.

6                 THE CHAIRMAN: All right, we can go  
7     into that another time. We also have with us this  
8     afternoon Mr. F. E. Tyler, who is General Secretary  
9     of the Canadian Collector Association. Mr. Tyler?

10                MR. TYLER: Mr. Chairman, may I please  
11     say that I have been for 17 years a licensed bill  
12     collector in the City of Toronto. And I have achieved  
13     a reputation for that reason which I don't apologize  
14     for. But during the course of my career I have  
15     become General Secretary for the Canadian Collector  
16     Association which is made up of membership across  
17     Canada in all ten Canadian Provinces and part of my  
18     duties are to advise and help members, that is,  
19     collecting agencies, credit bureaus, etc., in regard  
20     to amendments and changes in laws which deal with  
21     the Small Claims Act.

22                THE CHAIRMAN: Would you speak up just  
23     a bit, Mr. Tyler? It's difficult with the noise --

24                MR. TYLER: I apologize for the --

25                THE CHAIRMAN: It's our system, not you.

26                MR. TYLER: Which are attendant to the  
27     changes in laws affecting not only bill collecting but  
28     the rights of people who are presumed to owe money.  
29     Now, I have written this out and I will read it. I  
30     usually like to talk when I have notes, but your







1 Committee likes submissions as a record of what we are  
2 saying, so with your tolerance, I'll read it:

3 Dear Sirs: - My submissions will be  
4 brief. And tabled with hardly any statistics. Further,  
5 they cover three points. They are: -

6 First, the rights of the general creditor.  
7 We have heard a lot about easy credit, and your Committee  
8 has received a lot of information showing the plight of  
9 debtors who, through deception or sales pressure have  
10 bought too much and have too little to pay with. And I  
11 would point out that the business of collecting debts,  
12 and for others, is concerned with normal behavior of  
13 persons getting into debt in the field of small accounts.  
14 For this reason we too would like the power of seizures  
15 and its threat complex brought under control. And by  
16 legislative action. Picture the circumstances of people  
17 operating small businesses. By this I mean people run-  
18 ning a small store or small garage or small place.  
19 When John Doe has put aside the money to be paid on the  
20 family car -- lest it be seized. And the money on the  
21 television -- lest it be seized. And the money on the  
22 frig and other appliances -- lest they be seized. And  
23 other things bought on easy credit -- what is left to  
24 pay his bills? This after food, rent, or mortgages have  
25 been dealt with? That's the point, you see.

26 The truth is a few hundred dollars owing  
27 to a small store or business is of far greater importance  
28 to them than the countless millions owing on consumer  
29 goods. All sold on easy credit. For this reason the  
30 plight of the small man in business needs your consider-





1 ation.

2 Finally, on the first point, we are told  
3 that to those who give easy credit, and too freely,  
4 should be the responsibility for doing so. I heard  
5 here yesterday suggestions that people who give easy  
6 credit too easy are the architects of their own troubles.  
7 Now, I wish to show that this is very faulty reasoning,  
8 in my opinion. This is but an evasion of fact. After  
9 our client, the small business man has acted as a good  
10 citizen should and taken care to check credits and either  
11 refused to give it or, as is often the case, given it  
12 but in part, all his efforts can be put to waste. He  
13 does not know, and cannot find out, what his would-be  
14 debtor owes to others. And when he has got through with  
15 him, and rationed out the credit he is willing to give,  
16 his customer can skip around the corner and get all the  
17 easy credit he wants. Where are we?

18 The second point is the need for equity  
19 among creditors. I haven't written this too well -- I  
20 talk better than I write so I hope you will bear  
21 with me. It is not generally known that the creditors  
22 do not enjoy complete equity in law. And before I am  
23 told that in all the courts in Ontario, to which a credi-  
24 tor might apply to obtain a judgment for debt owing,  
25 whether it be Division Court, County Court or Supreme  
26 Court, that both the plaintiff and the defendant have  
27 equity, may I say that I am bringing forward evidence  
28 of a situation where court action need not be taken,  
29 and to collect debts. I'm referring to wage assignments.  
30 As no doubt you know, action may be taken in a Division







1 Court to recover judgment for an amount up to \$400 (and  
2 in District Court up to \$800). This was permitted two  
3 years ago -- \$200 up to \$400. And until judgment is  
4 signed no further action can be taken by a judgment credi-  
5 tor until a period of appeal has passed. This is 14 days.  
6 Further, once a judgment has been signed, and the judg-  
7 ment debtors owe two or more unsatisfied judgments in a  
8 Division Court, he, the debtor, may apply for a Consoli-  
9 dation Order. Section 156, The Ontario Division Courts  
10 Act. This, if granted, suspends for the time being all  
11 rights of attachment or wage garnishees. But after the  
12 law has been faithfully carried through, and with full  
13 and just equity to both creditor and debtor alike, and a  
14 Judges Order issued setting up the scheme for distribution  
15 on a pro-ratio basis to creditors of all money to be  
16 received from the consolidation debtor, the holder of  
17 one wage assignment can cause all this to come to a full  
18 stop. And no Ontario Court can at present do anything  
19 about it. There is no Court, no judge, no law to curb  
20 it.

21 I draw your attention to the fact that  
22 the Division Courts Act deals only with action to obtain  
23 a judgment, and post-judgment action in its many forms.  
24 It has no jurisdiction over the recovery of debts other-  
25 wise secured. And by an assignment of wages. A couple  
26 of months ago we had a delegation report to Attorney  
27 General, Mr. Common, and this was discussed -- this point  
28 here. In 1959 your Government enacted Bill 87, an Act  
29 to amend the Wages Act. And this expanded the field of  
30 exemptions from seizures under garnishee to include







1 seizures under a wage assignment. And fixed it to the  
2 total that can be taken to 30%. Here we must realize  
3 that 30% seized under a wage assignment can not be  
4 reduced or cancelled by a Judges Order. And should the  
5 wage assignment go in first, and before a garnishee, it  
6 gets the green light. Worse still, where we seize wages  
7 under a judgment we must renew the garnishee order every  
8 payday. Not so where a wage assignment has been served.  
9 If it is to recover \$3,000 owing to credit union or a  
10 finance company, it will take 30% each payday until  
11 fully satisfied. The countless small creditors -- that's  
12 the people I'm interested in -- who we seek to serve  
13 might have to wait two to five years before getting a  
14 dime. Where is the equity among creditors?

15           Outside of the 1959 amendment to the  
16 Wages Act, I know of no part of Ontario Statutes which  
17 mentions a wage assignment. They are mentioned in the  
18 federal Small Loans Act. But the root of the situation  
19 is that one may dispose of personal property. And as  
20 we will to do so. Wages due, and accruing, are the full  
21 right of the owner to assign. And as the person doing so  
22 is in a solvent circumstance, and not a bankrupt, they  
23 are acting in a matter which is a provincial responsibility.  
24 I refer to Section 92.(13) of the B.N.A. Act. And as  
25 this covers property and civil rights, a field in which  
26 Ontario may legislate, I suggest we do so.

27           May I read the first words of a Wage  
28 Assignment now in common use among lenders of large sums  
29 of money? Headed "Wage Assignment", this is what the  
30 man signs. "For value received, I hereby transfer,





1 assign, and set over into \_\_\_\_\_ (hereinafter re-  
2 ferred to as the assignee) 30% of all the wages, salaries  
3 or commissions, and all of any refund of deductions  
4 from pay including pension contributions, and other monies  
5 owing to me, or hereinafter to become owing to me or  
6 earned by me in the employ of \_\_\_\_\_". The crux  
7 of the point is, here the man is signing his property  
8 and wages which he has earned, which are due to him,  
9 which are accruing to him as earned, is called upon to  
10 assign wages he has not earned, which do not exist,  
11 property which does not exist.

12 We notice here that the holder of a Wage  
13 Assignment would appear to have the right of a seizure  
14 of wages yet to be earned. And this poses a real problem,  
15 one for the attention of the Government of Ontario.  
16 Since suit in a court to recover judgment for money owing  
17 rests entirely on proof that money is owing, and for  
18 past transactions, how can a man assign property that  
19 is not in existence? Again, where is the equity among  
20 creditors?

21 Now I come to the third point, which is  
22 the last but the one I like the most. I think this  
23 contains ideas which might help us in what we are  
24 studying. Last year the Senate considered a bill to  
25 amend the Bankruptcy Act, entitled S-2, and it adds 12  
26 or 15 new sections to the Bankruptcy Act in the realm of  
27 proposals, not absolutes but in the realm of proposals.  
28 And the reason why the Senate introduced this bill was  
29 because previously the only Payments of Debts Act in  
30 Alberta and Manitoba and our own Unconscionable Relief







1 Transactions Act had been repealed because of ultra vires,  
2 Parliament having jurisdiction over insolvency.

3 May I with due modesty say that in this  
4 Bill, which was passed by the Senate and now awaits but  
5 the proclamation of Ontario to legislate into being,  
6 Section 198, is in my opinion largely the answer to most  
7 of the problems being considered by this Committee.  
8 This because subsequent to the Orderly Payments of Debts  
9 laws, of Alberta and Manitoba, and the law dealing with  
10 unconscionable transactions in Ontario being repealed  
11 as being ultra vires, and of the provincial legislatures  
12 because they deal with insolvency -- the jurisdiction of  
13 Parliament -- the Canadian Senate brought into being the  
14 tool to return these laws to their original virtue.

15 Might I stress some of the points of this  
16 bill? It's a very lengthy bill. I've got copies in my  
17 pocket.

18 A. Many new sections were added to the present  
19 bankruptcy law to cope with proposals and means of avoid-  
20 ing insolvency or bankruptcy.

21 B. Section 714. An amount of debt, whether secured by  
22 judgment or otherwise may be included. This is very  
23 similar to the Quebec Lacone Law -- the Senate has en-  
24 acted an amendment to the Bankruptcy Act which provides  
25 the debtor does not necessarily have to be a judgment  
26 debtor but the claim tabled and agreed upon by the  
27 debtor as being a rightful debt. And those debts \$1,000  
28 or less without the consent of the creditors. If over,  
29 with their consent.

30 C. Section 182. This provides for a period of three





1 years in which the debtor, and under a Consolidation  
2 Order, may pay off in full his debts. And further,  
3 with the consent of his creditors may take longer time  
4 -- he can take five years.

5 D. Section 186. Where debtor is trady in payments --  
6 and most of us are, to tell the truth -- the clerk of the  
7 court may obtain from him a Wage Assignment directing  
8 all employers, both present and subsequent, to pay over  
9 all wages seizable to his court for distribution to  
10 creditors.

11           Might I suggest -- these are the three  
12 basic suggestions -- the consideration be given to an  
13 amendment to the Conditional Sales Act, Chapter 61, Re-  
14 vised Statutes of Ontario, to Section 9. This would  
15 require, where a seller retakes possession of goods for  
16 breach of condition, that he may still retain such  
17 rights subject that a Judges Order to make such  
18 repossession, where 75% of all monies due have been paid  
19 by the purchaser. This, in simple English means that  
20 since title remains with the seller with goods like  
21 cars, etc., having been sold under conditional sales  
22 agreements, this means the title remains with the seller  
23 and he has the right to take action to repossess, where  
24 substantial payments have been made by the unfortunate  
25 debtor, the purchaser, that a judge's counsel and advice  
26 should be sought and the judge will decide the case  
27 not merely on the title but on the merit of the claim  
28 for seizure. I do see as this would upset business or  
29 commerce or the collection business. I think it would  
30 be a great boon because a lot of jalopies which their







1 owners have commissioned would remain with the people  
2 using them.

3 The second suggestion is that all Wage  
4 Assignments be reistered in the offices of the County  
5 Court Clerk and should the assignee be also subject  
6 to other action in the courts, whether in Division Court  
7 or Supreme Court, etc., and for debt, that all such  
8 creditors share in the amounts liable to seizure. This  
9 by an obligation on the part of the holder of the wage  
10 assignment to register same in the County Court for a  
11 seizure. Suitable amendments could be made to the  
12 Creditors Relief Act to accommodate this. The reason  
13 why I select County Court rather than Division Court  
14 is obvious because Division Court limits are \$400.00.  
15 A man may owe up to \$3,000 and if the holders of Wage  
16 Assignments are obliged, as they are in many parts of  
17 the United States, are obliged to register them in  
18 the County Court, and then when registered to seize  
19 wages, would bear their share in full equity with  
20 other creditors who have obtained judgments. This  
21 would be just.

22 My third and last submission is that  
23 the Government of Ontario give immediate attention to  
24 provisions in the Senate Bill S-2. This last comment  
25 is the crux of the whole thing. We have been casting  
26 around to find a way to discourage people who get  
27 to easy into debt through the blandishments of salesmen  
28 -- their wife is usually a good salesman -- and they  
29 buy everything because the person next door has it and  
30 they must have it. They are civilized, they are modern,







1 they are progressive, etc., and they can still find  
2 the money, then if something happens and they get more  
3 children or they get sick, they have bitten off more  
4 than they can chew, etc. We must find a way to  
5 discourage them from getting further into debt. Now  
6 if, in the more acute cases they came under this  
7 Senate Bill, providing it was proclaimed in Ontario, it  
8 is my sincere contention, gentlemen, that this  
9 protection would relieve many people of anguish and  
10 anxiety and give them respite over a period of years  
11 and while it relinquishes protection they would not  
12 get further into debt. Now this Senate Bill provides  
13 for this; in my opinion the protection offered by  
14 this law, and to a debtor giving cooperation to it,  
15 would discourage the creation of further debts. I  
16 would draw the Committee's attention to Section 189 of  
17 the Senate Bill. This gives any creditor the power  
18 to kill the debtor's protection should a further debt  
19 of \$200 or more be incurred subsequently by him.  
20 This, if adopted in Ontario, would curb effectively much  
21 of the evils of easy credit.

22 THE CHAIRMAN: Just shove that micro-  
23 phone just about an inch away. I think that's better.  
24 I can never tell whether it's because of the amplifier  
25 or just what the reason is. You get sort of a feed-back  
26 or something. Are there any questions, Mr. Sedgwick?

27 MR. SEDGWICK: I have one or two. Mr.  
28 Tyler, I think the Committee would want this to be  
29 made known to them. You are here as a volunteer, you  
30 were not asked to come?





1 MR. TYLER: No.

2 MR. SEDGWICK: You asked permission to  
3 come?

4 MR. TYLER: Yes.

5 MR. SEDGWICK: And your business  
6 primarily is the business of the debt collector?

7 MR. TYLER: Yes, that's correct.

8 MR. SEDGWICK: Do you collect debts  
9 mostly for small places?

10 MR. TYLER: Yes, all kinds of miscellaneous  
11 retail businesses.

12 MR. SEDGWICK: Doctors?

13 MR. TYLER: Yes.

14 MR. SEDGWICK: Dentists?

15 MR. TYLER: Yes.

16 MR. SEDGWICK: Do you collect unpaid  
17 balances on trade paper?

18 MR. TYLER: No, I've never done that.

19 MR. SEDGWICK: You don't do that kind  
20 of thing?

21 MR. TYLER: We fellows protest the  
22 question of the usefulness of pursuing such debtors  
23 because these finance companies are asking debtors  
24 to make good deficiencies. They have seized the car  
25 or the refrigerator and they have suffered a loss and  
26 they are suing the debtor for deficiency and we don't  
27 get into that very much.

28 MR. SEDGWICK: You collect for the  
29 butcher, the baker and the candlestick maker, sort  
30 of a tradesman, is that right?







1 MR. TYLER: And the hardware man --

2 MR. SEDGWICK: Yes. And I appreciate  
3 what you said about wage assignments. Would you be  
4 in favour of legislation that outlawed wage assign-  
5 ments entirely?

6 MR. TYLER: No, I would not. I have,  
7 for 15 years, I have personally been a member of the  
8 unions in Toronto. I work in credit unions voluntarily  
9 and they use wage assignments a lot and I am constantly  
10 asked advice about them. I say that a wage assignment  
11 is a right document if it's given as a pledge for a  
12 small amount, within two or three month's wages. I  
13 contend that a wage assignment which mortgages a man's  
14 earnings next year is fundamentally wrong.

15 MR. SEDGWICK: Well then, would you be  
16 in favour of the abolition of wage assignments that are  
17 not self-liquidating within a very limited period of  
18 time?

19 MR. TYLER: Very much so.

20 MR. SEDGWICK: Three or six months --

21 MR. TYLER: Very much so.

22 MR. SEDGWICK: Yes. And your main  
23 complaint about wage assignments, I take it, is that the  
24 money all goes to the farsighted creditor who gets the  
25 wage assignment. Whereas it is your submission that  
26 they should be registered and if they are acted upon  
27 the money should be pooled for the benefit of all  
28 creditors, does that sum up your submission?

29 MR. TYLER: When you understand that  
30 the judge I seen yesterday morning -- he had an order





1 and this man can't obey it because of a wage assignment.

2 MR. SEDGWICK: That's what I am getting  
3 at. Your position is that if a wage assignment is  
4 taken by some farsighted creditor, he should be compelled  
5 to register it and then if he acts upon it by asking  
6 the employer to pay under it, then the money should  
7 be paid to a central pool and this should be for all  
8 creditors, not just to the one who was lucky enough  
9 to get the first assignment?

10 MR. TYLER: That's right.

11 MR. SEDGWICK: One of your suggestions,  
12 is that right?

13 MR. TYLER: Yes. Well, one important  
14 point on wage assignments which I don't want you to  
15 miss and this is a very important point. You see,  
16 when a wage assignment is made and signed by the loanee,  
17 the original copy is never sent to the man's employer.  
18 Usually --

19 MR. SEDGWICK: Not until he gets a  
20 default --

21 MR. TYLER: Now, this wage assignment  
22 could get into the wrong hands, be misused, and used  
23 time over again. That is because they are not  
24 registered.

25 MR. SEDGWICK: I was getting at that.  
26 If the wage assignment were registered the employer  
27 will then, or could then, become aware of it, couldn't  
28 he?

29 MR. TYLER: Right.

30 MR. SEDGWICK: You do not think that that





1 might have some effect on the man's employment? The  
2 employer might think of it as being a sort of an  
3 incurred garnishee?

4 MR. TYLER: No, I don't think so. That's  
5 a matter of education.

6 MR. SEDGWICK: Education of who?

7 MR. TYLER: Employers.

8 MR. SEDGWICK: Oh, I see. Then, as to  
9 trade paper -- I think I understand you correctly -- you  
10 said that after so much is paid on the article the  
11 only remedy of the seller should be to repossess it,  
12 is that right?

13 MR. TYLER: He has that right now.

14 MR. SEDGWICK: Oh, I know that, but in  
15 addition he has the right to sue for any deficiency.

16 MR. TYLER: After it is repossessed.

17 MR. SEDGWICK: Yes. And your suggestion  
18 is that after so much has been paid on the article,  
19 he should be confined to a right of repossession, is  
20 that right?

21 MR. TYLER: I didn't say that, but it's  
22 a good point though.

23 MR. SEDGWICK: Well, would you be in  
24 favour of it?

25 MR. TYLER: I think since the creditor,  
26 seeking to obtain judgment, deficiency judgment, would  
27 appear before a judge, providing the other side  
28 disputes it, I'd as soon leave that to the judge.

29 MR. SEDGWICK: What I am getting at is  
30 this. Let us suppose an article is sold for \$100.00, on







1 time, and the man has paid, say, \$50.00. That probably  
2 should only be \$30.00, but let's say \$50.00. Would  
3 you then be in favour of confining that creditor to  
4 a mere repossession of the article?

5 MR. TYLER: My basic suggestion here,  
6 sir, is because the person who is buying the car or  
7 television set or whatever it may be -- could be false  
8 teeth, you know -- regardless of what he is buying, he  
9 has made substantial payments and I feel that he has  
10 acquired a certain amount of equity.

11 MR. SEDGWICK: But he has -- you could  
12 always insist on the article being sold, and if it  
13 realizes more than the balance he gets the excess.

14 MR. TYLER: In this case you are talking  
15 about the seller, aren't you?

16 MR. SEDGWICK: No, the buyer would  
17 get the excess, although the article very seldom sells  
18 for more than the debt.

19 MR. TYLER: Never known of a case where  
20 it did sell --

21 MR. SEDGWICK: Well, it never does, I  
22 am aware of that. But would you -- I'll put my question  
23 again -- would you be in favour of restricting the  
24 unpaid seller to a right of repossession?

25 MR. TYLER: I would say no, but I  
26 would say that the seller would have the right to  
27 receive the deficiency charge if it should be decided  
28 properly in a court.

29 MR. MacDONALD: Well, why have you  
30 changed your opinion in the last five minutes?





1 MR. TYLER: I haven't.

2 MR. MacDONALD: Mr. Sedgwick first put  
3 the question to you as to whether or not a repossession  
4 actor, having made a certain percentage of payments --  
5 you said this was a very good point.

6 MR. TYLER: Yes. I mentioned it --

7 MR. MacDONALD: Yes, and you had  
8 mentioned it. Then you qualified it by saying that  
9 you would leave it to the discretion of the judge and  
10 now you have gone still further a step back and say  
11 that you think they should have the right to sue for  
12 the deficiency?

13 MR. TYLER: Mr. MacDonald, I am not  
14 retreating at all.

15 MR. MacDONALD: Well, it appeared to  
16 me --

17 MR. TYLER: That may be, but I am not  
18 retreating at all. Our opinion in this brief in a  
19 limited way, the process of repossession at the time  
20 when repossession is sought, if 75% of the money has  
21 been paid, repossession should be possible only by  
22 consent of a judge who would judge on the merits of  
23 the case. That's all I am interested in.

24 MR. SEDGWICK: Well, I don't know what  
25 merits he would judge except the fact that the money  
26 is owing.

27 MR. TYLER: The merits are the circum-  
28 stances of the debt. Why has he stopped the payments?

29 MR. SEDGWICK: I see. So that after a  
30 certain point of time you would forbid repossession







1 without some judicial process, is that your suggestion?

2 MR. TYLER: I have a motive behind  
3 this suggestion. It's a basic one, I feel. That if  
4 it was more difficult to repossess without trouble,  
5 people would be less willing to sell on easy credit  
6 without checking people's ability to pay.

7 MR. SEDGWICK: You think repossession  
8 is a powerful weapon in the hands of the seller, do  
9 you?

10 MR. TYLER: It certainly is. We should  
11 know this, we go collect it. The doctor's debt and  
12 no money because they are paying on the television and  
13 the car.

14 MR. SEDGWICK: I think those are the  
15 only questions I have.

16 THE CHAIRMAN: Mr. Bukator?

17 MR. BUKATOR: Mr. Tyler, you are a  
18 licensed collector?

19 MR. TYLER: Yes.

20 MR. BUKATOR: By whom?

21 MR. TYLER: The Department of Insurance of  
22 Ontario.

23 MR. BUKATOR: Ontario. How many years  
24 have you been at this business?

25 MR. TYLER: Seventeen years.

26 MR. BUKATOR: Quite a time. Did I get  
27 you right when you said you didn't take part in  
28 repossessing appliances or --?

29 MR. TYLER: Yes. I have never done that.

30 MR. BUKATOR: You've never done that





1 sort of thing? Well, I've got a series of questions  
2 along that line. Have you ever known of a collector to?

3 MR. TYLER: Some of our members do.

4 MR. BUKATOR: Yes. If an appliance that  
5 a man either can't pay or doesn't want to pay for --  
6 let's say a refrigerator for want of a better item --  
7 when they repossess -- some of the collector's that  
8 you speak of -- they take this refrigerator -- and if  
9 they are not -- in fine print -- I might ask this of  
10 Mr. Sedgwick -- a portion of the contract that if this  
11 refrigerator has not the equity, then they can take  
12 other appliances out of that home to compensate them  
13 for their debt?

14 MR. SEDGWICK: I believe that's so and  
15 I think it's a great evil. They can take the whole  
16 contents of the house to compensate for the refrigerator.

17 MR. BUKATOR: This is the point I'm  
18 driving at. Now then, if the refrigerator was  
19 repossessed because of lack of payment, have you heard  
20 of them backing up with a truck, such as we have heard  
21 in this Committee -- and by the way at home, too, on  
22 the street -- where they have backed up and taken other  
23 items to compensate them for their loss?

24 MR. TYLER: I hope you realize, sir,  
25 that when you talk to me about collectors, you shouldn't  
26 talk to me about debtors.

27 MR. BUKATOR: Oh, I see. The collectors  
28 have not done this at any time?

29 MR. TYLER: No, no. Some of the  
30 collectors are also licensed or appointed as bailiffs





1 under the Ontario --

2 MR. BUKATOR: I see. They wear two  
3 hats?

4 MR. TYLER: They wear two hats.

5 MR. BUKATOR: That being the case, the  
6 man who is wearing the two hats has backed the truck  
7 up to the house and taken the refrigerator, the  
8 Chesterfield and other items he feels would be suffi-  
9 cient to compensate the man who originally sold the  
10 refrigerator, for his loss.

11 MR. TYLER: They can back up, but they  
12 can't get in. People lock the doors.

13 MR. BUKATOR: Well, let's say the man  
14 didn't lock the door and they did get in.

15 MR. TYLER: Well, if they came in  
16 where I was sitting --

17 MR. BUKATOR: Well, have you heard of  
18 cases where people have had their furniture taken  
19 out by -- I guess you would call them unscrupulous  
20 dealers --

21 MR. TYLER: Yes.

22 MR. BUKATOR: You naturally are not  
23 in favour of this, are you?

24 MR. TYLER: I think it's a very  
25 undesirable practice.

26 MR. BUKATOR: Is there much of that being  
27 done today, say in the larger areas that you are  
28 acquainted with?

29 MR. TYLER: I believe, sir, that in the  
30 Maritime Provinces repossessions are the lowest, they







1 are highest in the Province of Quebec.

2 MR. BUKATOR: How about Toronto?

3 MR. TYLER: Toronto has the highest  
4 percentage of anywhere in Ontario because there are  
5 more people. (Laughter)

6 MR. BUKATOR: This happens once a week  
7 or daily in certain areas, I imagine. Am I going too  
8 far?

9 MR. TYLER: I think to do justice to  
10 the creditor, they give the people chance to pay some  
11 money (rest inaudible)

12 MR. BUKATOR: They seem to be infringing  
13 on your territory?

14 MR. TYLER: Very much so. You see a  
15 person goes out to repossess the refrigerator and the  
16 fellow says, "Well, I can pay \$5.00". So he hands  
17 it to the creditor and the creditor says, "Okay," and  
18 away he goes, see? That man is not a licensed  
19 collector, but he should be, he's collecting debts;  
20 but he's not. In this Province, sir, collecting  
21 agencies are under the administration of the Department  
22 of Insurance and the licensed collector is limited as  
23 to what he can do. He cannot use the telephone and  
24 reverse the charges, he cannot send a telegram and  
25 reverse the charges, he cannot browbeat and abuse a  
26 debtor on the telephone or call him on Sundays or  
27 holidays, all the measures he uses must be approved,  
28 form letters, not personal but form letters. (Rest  
29 inaudible) The Attorney General can tell you about it.

30 MR. BUKATOR: That is a practice that I've





1 heard of since I've been on this Committee that I  
2 certainly don't approve of either.

3 MR. TYLER: I don't think that people  
4 should be penalized, because they paid for other items,  
5 simply because they have become delinquent in one item  
6 only. This does not seem to be just.

7 THE CHAIRMAN: Mr. White?

8 MR. WHITE: Will you elaborate on a  
9 statement you made to the effect that having obtained  
10 a wage assignment the creditor will send a photostat  
11 to the employer and I think I understood you to say  
12 that he might later use the same assignment for  
13 other employers?

14 MR. TYLER: I wasn't suggesting, sir,  
15 that is was done. All I am suggesting is that it  
16 could be done and there is no legal method to prevent  
17 it. You see what happens in practice is this: A man  
18 goes to a credit union and borrows money and credit  
19 unions are very high principled organizations, they  
20 are the friend of their members and they help members.  
21 Other people in business may be less scrupulous. Real  
22 estate firms will take a wage assignment on a salesman  
23 selling on commission. I know I have tried to get  
24 garnishees on a commission and you can't get them  
25 because they already owe the boss money, overdraft  
26 secured by wage assignment. Right after him, he's  
27 not only the holder of the wage assignment, but also  
28 the employer. Now, when this wage assignment is  
29 signed, it would be wrong in principle to send the  
30 original in to the employee to destroy it and that's







1 the end of the evidence. So obviously we make photo-  
2 stats and keep the original. If we are people of  
3 good conscience and honest, when a bill is paid we  
4 tear up the wage assignment. I always do, I don't  
5 even return it to the credit union. When the bill is  
6 paid I tear it up. That's the end of the matter.  
7 There is no requirement in our laws for this to be  
8 done. There is no place where these documents are  
9 registered. An innocent person has no protection if  
10 they were used by fraudulent and wrong people.

11 MR. WHITE: You obviously suspect that  
12 wage assignments are being used again and again?

13 MR. TYLER: Yes, I'd say that, yes.  
14 I suspect that but I have no evidence. If I had,  
15 where would I send it to? You have no laws on the  
16 subject.

17 MR. WHITE: Is the name of the employer  
18 shown on the wage assignment?

19 MR. TYLER: At the time when the person  
20 makes out the wage assignment he puts the name of  
21 his employer at that time. You notice the document  
22 provides for subsequent employers so regardless it  
23 can be served on a subsequent employer.

24 MR. WHITE: His name would be typed  
25 in to the assignment after?

26 MR. TYLER: The way it is done is by  
27 leaving the wage assignment alone and pinning it to  
28 a letter which you send to the subsequent employer.  
29 That's how it's done.

30 MR. WHITE: Will somebody explain the





1 difference between a garnishee and a wage assignment?

2 I'm not clear on that?

3 MR. SEDGWICK: A garnishee is a court  
4 process. The wage assignment is something between  
5 the assignor and the assignee and the employer. There  
6 is no intervention of a Court at all in connection with  
7 a wage assignment. The garnishee is a Court process.

8 MR. TYLER: Sir, the only circum-  
9 stances under which a Court would be used in connection  
10 with a wage assignment would be if the employer would  
11 not obey it. There was a case in Kitchener six years  
12 ago where St. Peter's Credit Union sued an employer  
13 because he would not honour a wage assignment and they  
14 got judgment in their favour.

15 MR. MacDONALD: Judgment which?

16 MR. TYLER: In their favour -- St. Peter's  
17 Credit Union of Kitchener, because the employer would  
18 not obey the direction. At that time there was no  
19 (rest inaudible)

20 THE CHAIRMAN: Mr. Irwin?

21 MR. IRWIN: I would like to hear further  
22 comment from you, Mr. Tyler, or anyone else, on the  
23 question of repossession. Why would it not be a fair  
24 proposition to limit totally the right of repossession  
25 after a percentage of the principal had been paid? In  
26 other words, after the percentage of, say, 30 or 40 or  
27 50% of the principal of the debt had been paid, why  
28 not have it that the title automatically passes to the  
29 purchaser and the creditor then is limited entirely  
30 as to his rights as a general creditor for the





1 deficiency?

2 MR. TYLER: Mr. Irwin, that obviously  
3 would be wrong because there are people who have  
4 paid 75% on the car or frig and they are wanton, they  
5 have night life and they are characters that are  
6 irresponsible, why should they be given 25% bonus on  
7 a thing they have had the use of? Let the judge  
8 decide on the merits of the case.

9 MR. IRWIN: Well, what about your  
10 dentist, he hasn't got any security. He can't take  
11 his teeth back? Why should the seller of a car or  
12 a television set be in any better position than the  
13 dentist or the doctor or the corner grocer? After  
14 a certain point -- I recognize perhaps that up to a  
15 certain point the title might still remain with the  
16 vendor, but after that point, why can't it pass totally  
17 to the purchaser and let the seller of the article  
18 be a general creditor like anybody else?

19 MR. TYLER: What you are stating sir,  
20 exists in the State of New York and Pennsylvania. In  
21 New York, if 80% has been paid it cannot be seized and  
22 the the balance is treated as a debt. In Pennsylvania  
23 it is 75%, as I propose here, to all goods secured by  
24 conditional sales agreements. I personally don't agree  
25 with it because as a bill collector and probably not  
26 too very much in general favour, I've had a lot of  
27 real hard experiences with people. I've got to know  
28 a lot of people personally. I go visit them, I trade  
29 with them and joke with them -- that's how you get  
30 money sometimes, by joking with people. But, I want







1 to tell you that there are people today who, if they  
2 were not compelled to pay that balance because they  
3 were going to be seized, they wouldn't pay it at all.

4 MR. IRWIN: I would like to make this  
5 suggestion which might tie in with your own moral  
6 philosophy, which I gather you are trying to convey --  
7 that it might be a good idea to discourage the lenders  
8 from lending on marginal risks. Now this might have  
9 the very salutary effect on the whole marginal area  
10 of credit in circumstances which we are dealing with,  
11 if this rate of repossession were ultimately limited  
12 to, say, that point at which 50, 60, 75 or 80% of  
13 the original principal had been paid. Then, as you  
14 have said yourself, the lender knowing that he runs  
15 the risk of becoming only a general creditor for 25%  
16 would be a little more cautious.

17 MR. TYLER: That's right.

18 MR. IRWIN: Would this not be a  
19 salutary influence on the whole situation?

20 MR. TYLER: I think there's a point  
21 here that people in New York and Pennsylvania, and  
22 other states too, on wage assignments in Manitoba when  
23 a man makes a wage assignment he must be married, he  
24 must get his wife's consent. That's an interesting  
25 point, in Manitoba, he must get his wife's consent,  
26 that is if she is living with him at the time. (Laughter)

27 MR. IRWIN: Another point along with  
28 your other line of thought that I would like to hear  
29 some comment on is, I gather that you are, your activi-  
30 ties are related to the collection of unsecured debts?





1 MR. TYLER: Yes.

2 MR. IRWIN: How would you rate the  
3 incidence of the type of debt which is most likely  
4 to go bad? Is it the grocer, the dentist, the doctor?

5 MR. TYLER: You mean the type of --

6 MR. IRWIN: Yes, the type of debt, the  
7 type of account?

8 MR. TYLER: Well, I would say that when  
9 food has been bought and consumer and owed for, it's  
10 harder to pay for. And also clothing, when it's made  
11 to measure, don't get paid for. I would think that  
12 among middle age people -- not so much the young fry  
13 because they are quite irresponsible when it comes  
14 to car bills -- not generally, but quite a few of  
15 them -- we get more civilized when we get married, you  
16 know, settle down. (Laughter) The young bloods, of  
17 course, can owe money and they are not too much worried.  
18 It's quite a joke when a bill collector gets after  
19 them, especially when he gets after the other fellow  
20 and not him. But I would say that car bills are  
21 easier to collect than food because the average man  
22 needs the car that's been repaired and he still needs  
23 to get it repaired somewhere. When it gets around that  
24 he owes bills on the car he can't get credit somewhere  
25 else, see? Collecting on credit jewelry is hard.  
26 Collecting for department stores is comparatively easy.  
27 I thought you were talking about the type of debtors,  
28 because the --

29 MR. IRWIN: Well, that would be  
30 interesting.







1 MR. TYLER: The worst debtors -- and I  
2 speak from experience and we have rather hackneyed  
3 charts that we use -- but my own personal opinion and  
4 experience is that lawyers definitely (laughter drowns  
5 out rest) they are about in the middle, and so are  
6 tenant farmers. The best credit risk is a farmer  
7 who owns his own land. He's the best credit risk.  
8 And people's religious persuasions -- take the  
9 forthright people like Mormons and -- they are good  
10 credit risks. Where people have religious convictions  
11 which is precious and important to them, but I'm not  
12 personally religious, I have no religion -- except  
13 bill collecting (laughter). My observation is that  
14 where a person is sincerely religious they shudder  
15 at the thought of owing money. But I can assure you  
16 that debtors are becoming sophisticated these days.  
17 And among bill collectors -- not too high an under-  
18 standing of legislative matters -- they have still  
19 got a production complex, you know -- so many accounts  
20 and so much money, -- but some of us feel that we've  
21 got to arrive at a method, not only to assist debtors  
22 to pay their debts, but to discourage them from  
23 getting into further debt, and I think the Senate Bill  
24 is largely the answer.

25 MR. IRWIN: Seeing the bill has been  
26 opened, I can't resist the recording for the Committee  
27 that in the United States Certified Public Accountants  
28 are rated second amongst all credit risks (Laughter).

29 THE CHAIRMAN: Mr. Belanger?

30 MR. BELANGER: (Question missed on next





1 tape)

2 MR. TYLER: Innocent people have no  
3 protection is they are used by fraudulent and wrong  
4 people.

5 MR. BELANGER: You obviously suspect  
6 that (flaw on tape)

7 MR. TYLER: Yes.

8 MR. BELANGER: Do you find that the  
9 amount of business that is being done by collection  
10 agencies now is increasing quite an extent?

11 MR. TYLER: The answer to that, sir,  
12 is during the past ten years it has increased 40%  
13 in the volume of accounts handled. You must realize  
14 that that increase is subject to some extent by an  
15 increase in population. But the thing that concerns  
16 me as Secretary is the collectability -- what we call  
17 the number of accounts we collect is diminishing and  
18 the cost of --

19 MR. BELANGER: What was that again,  
20 what was that last statement?

21 MR. TYLER: That the number of accounts  
22 that you collect, or what we call collectability, is  
23 diminishing, the amount we collect is diminishing, we  
24 collect more installments and less debts and it's  
25 costing more money to collect. That's the general  
26 picture. The truth is that the collection business  
27 has moved into a second position compared to people  
28 who run the finance companies and buying paper, like  
29 credit paper, because they have the Indian Sign on  
30 the debtor, see, they've got the green light. And you





1 won't find these people in the Division Courts, being  
2 sued. They don't act that way. They bring the man  
3 into the office and lend him more money. As a matter  
4 of fact a bill collector is almost as respectable  
5 as a pawn broker in the general business of evening  
6 dead accounts. You know the difference between a  
7 pawn broker and a finance company, don't you? The  
8 pawn broker takes your watch but it still belongs to  
9 you and lends you money. And he's going to keep your  
10 watch in good repair safe from arson and water and  
11 theft and it is still yours. And even if he is going  
12 to redeem it you don't get called on for the money,  
13 he's going to give you notice of 70 days -- he must  
14 hold it a year under the Dominion Pawn Brokers' Act --  
15 Well, we fashioned a scheme now whereby in modern  
16 days we let a guy buy a car which he doesn't have a  
17 title to, but he's responsible for its maintenance,  
18 take care of it in every respect, responsible for  
19 what he does with it, yet he doesn't own it. And even  
20 if he hasn't paid for it the Province of Ontario  
21 permits him to register himself as the owner when he's  
22 not the owner until it's paid for. So we turn things  
23 around, see. Let's get back to the days of the pawn  
24 broker, the three balls, you see, and let's know what  
25 we are doing.

26 MR. BELANGER: I was going to ask, what  
27 about the fee you charge -- what's the percentage of  
28 the accounts that they have to collect?

29 MR. TYLER: I am glad you are asking  
30 these questions --it adds quite a bit of enhancement to







1 my ability. Obviously there is a variation in  
2 commissions, but in Ontario we are obliged to follow  
3 the Department of Insurance covered by a contract  
4 and we charge a commission determined first by the  
5 age of the account, the age of the account is determined  
6 by date of last payment. He may have owed \$100.00 two  
7 years ago but paid \$6.00 three months ago. The account  
8 is three months old, see? The date of last payment.  
9 We charge 25% of the money collected on that.

10 MR. BELANGER: 15 to 20?

11 MR. TYLER: To 25%. Some get 25%,  
12 some get 15%. Very few get 15% because of all the  
13 things which make it more difficult. Debtors have  
14 the habit of moving -- I guess you haven't heard about  
15 that one. The most efficient collector is the income  
16 tax department. They can collect anywhere in Canada  
17 without running into Provincial Governments. There is  
18 no question of jurisdiction. If you live in Ontario  
19 and you owe \$25.00 and you leave for Manitoba -- we  
20 can't go into Manitoba -- you have to use a lawyer.  
21 If it's \$25.00 he owes you can spend \$100.00 in  
22 expenses, to go in there. Not the Government of  
23 Canada, he goes anywhere in Canada and gets his man.  
24 They don't follow that jurisdiction in official matters  
25 and you can't do a thing about them either. They get  
26 their money. They are the most efficient collectors  
27 and then after that I think the Government of Ontario  
28 as a retail sales collector does very well (Laughter).  
29 Very interesting item, I might say, very interesting.

30 MR. BELANGER: Besides this 15 to 25%,





1 is there anything else attached to it?

2 MR. TYLER: We charge no fees. We are  
3 different from lawyers, you see. Lawyers have more  
4 privilege. First of all, we have to be bonded, lawyers  
5 don't have to be bonded (Laughter). Lawyers can be  
6 dealt with by the Law Society if he misbehaves. We  
7 lose our licence. For each \$10,000 we collect we must  
8 file another bond for any part thereof, which means  
9 if we collect \$10,000.01 we file \$2,000. See? Up  
10 to a limit of \$10,000. Then we pay an annual licence  
11 fee.

12 MR. BELANGER: How large is the fee?

13 MR. TYLER: \$25.00 a year, that's all  
14 it is, for a licence fee. But we carry a licence fee  
15 for each collector personally employed on our staff  
16 as a collector, who goes out to see debtors, and the  
17 fellow uses the telephone, see? He gets a lot of  
18 experience on the telephone. However, the collector  
19 doesn't get aggressive, because we find getting  
20 aggressive is like shutting the door. You've got to  
21 be on personal terms with the debtor to get the money.  
22 You hear everything and you don't dispute a thing.  
23 But you don't believe it (Laughter).

24 MR. BELANGER: What riding could you  
25 run in? (Laughter).

26 MR. TYLER: I'm thinking seriously of  
27 running, you see, my party never gets elected (Laughter).

28 MR. BELANGER: What would be the  
29 percentage of appliances, say refrigerators?

30 MR. TYLER: I think less than 5%.







1 MR. BELANGER: Less than 5%.

2 MR. TYLER: It isn't a serious matter?

3 MR. BELANGER: It isn't?

4 MR. TYLER: No.

5 MR. BELANGER: We have heard that as  
6 far as a truck backing up to the borrower and taking  
7 what they want -- have they got a right to do that?

8 MR. TYLER: Well, I think there are  
9 lawyers present and I could stand to be corrected,  
10 because I'm not a lawyer, but I discovered in life  
11 that if you don't know -- there's a coward in every  
12 morning you look at in the looking glass that tells  
13 you -- and I've know what I know without realizing  
14 I don't know. I just try to find out, see? So the  
15 situation as I see it is, a man has a right in his  
16 own castle. A man will come in only once to release  
17 for the purpose of putting a sign in the window "To  
18 Let" -- or to see what repairs are needed -- otherwise  
19 he keeps out. As for using it, under the Bailiff's  
20 Act, is to put a bailiff on him for his unpaid rent,  
21 that we know of. But the tenant has exemptions, tools  
22 to use, his rights, you know, and anything else that  
23 is essential to his existence. But the landlord has  
24 much more right to enter his premises than the Busy  
25 Bee Appliance Company has to go in and take the frig.  
26 They can't get past the door if the man won't allow them.  
27 Of course, they can go down to the Police Station and  
28 get a police officer in on these matters. If they  
29 block the way in and they don't get in, that's the  
30 end of it. Of course, if the Busy Bee Appliance Company





1 still insists on getting its frig they can go to Court  
2 and get a judgment. But I assure you that forceful  
3 entrance is unlawful and wrong and should be frowned  
4 on and should be stopped. And no credit to the people  
5 who try to do it. I have never been shown out of a  
6 house collecting a debt and I've been doing it for  
7 17 years. Lots of times people ask me to come back.  
8 I don't know why, but -- (Laughter).

9 MR. BELANGER: I understand the  
10 Orderly Payments Act has been changed to the extent  
11 that they are only allowed to work in their own  
12 County and they are not allowed to work in another  
13 ~~County~~ unless they get an authorization from the County  
14 Judge there. What about you people in the collection  
15 agencies? Can you collect outside the Province?

16 MR. TYLER: The answer to that is  
17 we are licensed provincially, we can solicit business,  
18 we can seek debts anywhere in the Province of Ontario,  
19 but if we seek to use the Division Court to obtain a  
20 judgment of a debt of \$400 or less, we are obliged  
21 to use the right Court -- this by amendment of the  
22 Division Court Act -- in 1961, I think, or maybe it  
23 was 1960 -- which means simply this. We are obliged  
24 to sue in the Court where the debtor resides or where  
25 our credit resides. In other words I have an agency  
26 in Toronto and a client in Timmins and a debtor in  
27 Port Francis, I would sue in Port Francis, not  
28 Toronto. So we are restricted, if we use the Courts.  
29 You use the right Court, outside of that we can go  
30 anywhere in the Province.





1 THE CHAIRMAN: Mr. Noden? Mr. Reilly?

2 MR. REILLY: Well, Mr. Chairman, when  
3 Mr. Tyler concluding his brief, he suggested three  
4 amendments. The first one was that the seller taking  
5 possession of the goods -- it was an amendment to the  
6 Conditional Sales Contract -- would you like to  
7 amplify on that?

8 MR. TYLER: Yes. May I first read  
9 it, Mr. Chairman, and then amplify on it. My suggestion,  
10 number one, is that consideration be given to an amend-  
11 ment to the Conditional Sales Act, Chapter 61,  
12 Revised Statutes of Ontario, Section 9. This would  
13 require where a seller retakes possession of goods for  
14 breach of contract that he may still retain such rights  
15 subject that a judges order to make such repossession,  
16 where 75% of all monies due have been paid by the  
17 purchaser. That simply means I would not interfere  
18 with the present Conditional Sales agreement --  
19 incidentally the right to repossess if the balance is  
20 owing and the account is delinquent -- except that  
21 where 75% had been paid I would have the vendor seek  
22 the judge's approval in the presence of the debtor,  
23 so the judge may consider -- as he does in a Division  
24 Court suit where there is a trial -- he may consider  
25 the merits of the case. You see, let's take some  
26 hypothetical situations. Here is a fellow who has  
27 got married and they do that, in case you don't know --  
28 his wife is a nice, sweet thing, but she wants things  
29 that the other girls have, so he gets things, you see.  
30 Now, he just can't pay for it -- there's no use talking







1 -- I've done it myself when I was young. So he can't  
2 pay so they talk it over and they talk to the old man --  
3 he's got no money, so they are on their own. There  
4 are more children coming, you see, and these bills  
5 have to be paid. So what to do about it? Now, if  
6 it was a Division Court judge, they could go down to  
7 the judge and apply for consideration. They would  
8 go up for examination on judgment debt and the judge  
9 would consider the merits of the case, if he does  
10 what we say. If there is two or more judgements  
11 then he probably would give a consolidation order.  
12 But if it's some chattel mortgage on a thing which  
13 is not secured by judgment and it's not going to go to  
14 Court, they have got a problem, see? Now I contend  
15 that there can be circumstances where the man is  
16 in debt through sickness and trouble which is personal,  
17 unavoidable, innocent and worthy of compassion, that  
18 the judge would consider it and say, "Well, maybe a  
19 couple of months from now he can carry a bit. I'll  
20 hold up this seizure for a month." This could be  
21 just and equitable. He wouldn't interfere with the  
22 creditor's rights because he hasn't lost his title.  
23 A month later he may still get it back. But it has  
24 a very great deterrent on people who serve easy  
25 credit for that consideration. They won't loan people  
26 more than they can pay.

27 MR. IRWIN: I thought, Mr. Chairman,  
28 that Mr. Tyler might open up an interesting area as  
29 the result of his experience. And that is, what is  
30 the machinery available to granters of credit, the





1 credit man, the finance company or the credit man in  
2 a department store, and to the collection agency like  
3 yourself. Is there a formal machinery available  
4 throughout Ontario, throughout Canada, as I understand  
5 there is quite elaborate machinery in the United  
6 States for tracing people, skips particularly, and  
7 what use is made of this machinery and how effective  
8 is it?

9 MR. TYLER: I can give you, if you  
10 have got the time, I can give you a picture of what  
11 exists now, which is not at all perfect, very  
12 imperfect. You must understand when we are talking  
13 about checks on credit, the person's ability to pay  
14 their bills on which you have given them credit.  
15 There is a distinction between retail and trade  
16 accounts. There are, in small towns, credit bureaus  
17 (inaudible) In a small town everybody knows each  
18 other, you see, not much trouble to sort them out  
19 and make a file on them. But in Toronto there is  
20 such a terrific turnover in population, people coming  
21 and going that the conformation of these files is not  
22 too good. Possibly the best files are Simpson's and  
23 Eaton's because they do a lot of business. You can  
24 get anything down there, I know myself, you can get  
25 anything down there -- just show your card and go to  
26 a department and they will sell it to you. I don't  
27 know what happens if you don't pay, I've never tried  
28 that. But there are tremendous files, like Simpson-  
29 Sear's -- they've got tremendous files of people  
30 continually buying and trading on credit. (Inaudible)







1 But in small businesses like retail hardware or garages  
2 or small businesses who do not have a pressing contact  
3 with people seeking credit, they become the main  
4 victims in the collection business. That's why I'm  
5 in that business, because I know that. Now, in  
6 regard to tracing, if ~~will~~ teach people how to trace  
7 better I'll be getting out of my business, but you  
8 see, the sad truth is that the first record in  
9 efficient tracing is the original time when the  
10 business is done and the manner in which the cards  
11 and records are made. To give you an idea -- a man  
12 who is applying for credit, his name is Simpson, and  
13 you know it is a man --you could tell by looking at  
14 him -- that's all you know, if you are an inefficient  
15 credit man. But you must know if it's Edwin or  
16 Edward, if it's Edward Samuel or Edwin Harry, and if  
17 he has a wife, you must know what her full name is,  
18 see? You must know his age, at the time he applied  
19 for credit, his occupation and if he is self-employed,  
20 where he banks and usually his car licence number.  
21 Credit bureaus make a great mistake on all their  
22 credit applications to get the engine number not the  
23 car licence number. The importance of a car licence  
24 number is that you can dial the police files -- let's  
25 face it, it's useful sometimes, you know. Dial  
26 the police file and give the number and they will  
27 tell you where the man is living you see? It costs  
28 you nothing. If he comes in from Manitoba or British  
29 Columbia every six months you've got the Manitoba or  
30 B.C. licence -- get it just the same as an Ontario





1 licence -- the same thing if you write to other  
2 Provinces. Getting this car licence number and the  
3 proper spelling of the name, occupation, is very  
4 important. You can get other details, like his  
5 professed religion, but I've met some religious  
6 people who don't know what to profess. But you put  
7 it down. I think you ought to get his father and  
8 mother's name and in-laws, so much to the good. But  
9 how much information you get on that card the first  
10 time is very important and from my experience, and  
11 I've had 17 years at it , people get this information  
12 afterwards when they are trying to collect the debt.  
13 There is another thing too, people have got the habit  
14 of changing their names. That's what happens when  
15 a woman gets married, change their names, see? So  
16 Suzy Green who owes the money may now be Mrs. Suzy  
17 Melton or Jones. And that is not a change of name  
18 like our friends from other countries who seek to  
19 become citizens and they find if they change their  
20 name from Shultz to Smith, they are easier to get  
21 along with, see? So check the records and find out  
22 the change of name. This takes time, you see. Tracing  
23 isn't too difficult if you've been at it some length  
24 of time. You need patience, more patience than most  
25 people.

26 MR. BELANGER: What happens to your  
27 accounts that you have to write off, you just can't  
28 collect?

29 MR. TYLER: That's a nice question. I  
30 would say that within three years you would write off







1 less than 4%, if you are a good collector.

2 MR. BELANGER: Less than 4% in three  
3 years time?

4 MR. TYLER: Yes.

5 MR. BELANGER: That's pretty good.

6 MR. TYLER: Then say you collect  
7 something, you wouldn't write him off. (Laughter).

8 MR. MacDONALD: Mr. Chairman, may I  
9 ask Mr. Tyler, from his experience, does the practice  
10 of medical and dental bills being collected through  
11 agencies such as yours a growing one?

12 MR. TYLER: Well, I believe that's  
13 true and I also believe that agencies are beginning  
14 to specialize in collecting debts. I think so. I  
15 believe the medical profession is reluctant, more so  
16 than dentists, are reluctant to turn them over because  
17 many doctors establish a personal relationship with  
18 their patients. Of course, they lose their patients  
19 through their patience, you know. There is one  
20 thing about a doctor (rest inaudible). Well, I  
21 believe medical ~~accounts~~ are here to stay and they  
22 might as well use collecting agencies, as well as  
23 lawyers --

24 THE CHAIRMAN: Are there any other  
25 questions? If there are no further questions, thanks  
26 very much, Mr. Tyler, for being with us today. We  
27 appreciate your submission and evidence to the  
28 Committee. Gentlemen, is there anything else that  
29 anybody wants to bring up at this time? If not, we  
30 will adjourn the meeting until 10:00 tomorrow morning.







